



Construction Management Manual

SECTION IV FEDERAL REQUIREMENTS



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IV. FEDERAL REQUIREMENTS

For reference convenience, the nomenclature from Chapter I. Definitions and Terms is repeated below:

Nomenclature:

The typical Nomenclature used in this manual is as follows:

Bold font typically indicates an action that needs to be taken.

Italic font typically indicates important information.

Step-by-step instructions for a procedure will be found inside a black box similar to this.

Reference to Appendix documents are shown with a shaded highlight: Appendix F.0.0.

Links to websites change over time, and those shown herein are correct as of this latest update.



IV.1: OVERVIEW AND BACKGROUND OF FEDERAL AID PROJECTS

Some of MCDOT's projects are partially funded by the U.S. Department of Transportation (USDOT) through the Federal Highway Administration (FHWA) along with a Partnership with the Arizona Department of Transportation (ADOT) through the Local Public Agency Certification Acceptance (CA) Program. Through this program, MCDOT has been designated as a CA Agency. ADOT delegates certain responsibilities to MCDOT using a fully executed CA Agreement. This results in the delegation of project administration to MCDOT, with ADOT oversight of LPA Compliance of federal requirements for project delivery.

MCDOT will adhere to the following Certification Acceptance Agency Requirements:

- MCDOT fully accepts the delegated authority from ADOT
- Agrees to adhere to federal and state laws and regulations
- Will perform delegated activities as documented in ADOT's Certification Acceptance Manual
- Will cooperate with ADOT in the adoptions of processes, procedures and guidelines.
- Will have staff and procedures in place to develop, construct and maintain federally-funded projects.



IV.2: CONTRACTS

IV.2.1: Construction Contracts

The Construction phase of federal-aid projects involves both the administration of the CA Agreement between the MCDOT and ADOT, as well as the implementation of the executed contract between the construction contractor and MCDOT. The section describes the Construction phase of the project and the regulations required for proper administration of the contract during construction.

Outline of Key Process Components Construction Contracts

- Solicitation preparation
- Complete PS&E Package and all required clearances
- Request authorization
- Advertisement
- Pre-Bid Conference
- Bid Opening
- Construction contract verification
- Contract Award & Contract Execution
- Project Coordination & Preconstruction & Partnering Meeting
- Prompt Payment and Payment reporting
- Monitor DBE, EEO and Certified Payroll
- Provide Progress Reports
- Conduct site visits
- Provide Project documentation
- Complete final Inspection
- Follow contract closeout processes

In general, the Construction Engineer should be aware of the following significant areas of contract administration for Federal-aid contracts:

- DBE contract for the project
- Bid items and work categories the subcontracted DBE firm is associated with
- Required On-the-Job Training (OJT) Hours assessed on project (if applicable)
- The DOL Wage Decision applicable to the contract

The Project Manager in conjunction with Procurement will confirm the required information is accurate and disseminate to Construction Project Manager prior to the submittal to ADOT for final authorization from FHWA.

All federal-aid contracts will include additional federal requirements and disseminated within awarded contracts to consultants and contractors.



Contract Provisions

Federal laws and regulations require that specific contract provisions be included in federal-aid construction contracts. The CA Agency must ensure the bid package and awarded construction contract are complete. The package includes the most current version of the following contract clauses:

- Breach of Contract Language
- Buy America Provisions
- Cargo Preference Act Language
- Changes and extra work and contract time and contract time extensions per 23 CFR § 635.120 and §635.121
- Contract Notice to Proceed, Commencement, and completion of Work Dates
- Disadvantaged Business Enterprise (DBE):
 - DBE Goal percentage
 - DBE Special Provisions (DBE EPRISE)
 - DBE Assurance Form (3102C)
 - DBE Intended Participation Affidavit
 - DBE Intended Participation Affidavit Individual Form (Form 3105C)
 - DBE Intended Participation Affidavit Summary Form (Form 3106C)
 - On Line Bidders List
 - Bidders List Email Confirmation Notice
 - DBE Good Faith Efforts 103C
 - DBE Termination/Substitution/Reduction (TSR) Request (Form 3108C)
 - Commercially Useful Function (CUF) Language
 - DBE Certification of Final Payment Form 3110C
 - DBE Joint Check Request Form 3109C
 - DBE Joint Check Agreement (Form 3114C)
- Energy Efficiency Language
- Environmental Commitments
- Equal Employment Opportunity (EEO):
 - Equal Employment Opportunity Clauses
 - Executive Order 11246 (revised 5-12)
 - EEO Compliance Reports (Form FHWA-1273) – for construction contracts only
 - Certification, Contracts, or Subcontracts Subject to EEO Clause (April, 1969)
 - Executive Order 2009-09
 - Federal Immigration and Nationality Act Language
- FHWA 1273 (May 1, 2012)
- Job Site Posters Required List
 - <http://www.fhwa.dot.gov/programadm in/contracts/poster.cfm>
- Non-Collusion Provision
- On the Job Training Provision (If Applicable)
- Prompt Pay Provision and Payment Reporting Provisions



- Record Retention Language
- Recovered Materials Language
- Standard Change Condition Clause
- Termination of Contract Language
- Title VI Assurances and Title VI Appendix A & E
- Wage Determination Decision - Project Specific

Requesting a DBE Goal for the Construction Project:

As a subrecipient of FHWA funds, MCDOT must have their projects assessed for a DBE goal prior to advertising a contract by submitting a DBE Goal Worksheet to the ADOT Business Engagement and Compliance Office (BECO) and must include the DBE contract goal in the contract bid advertisements and request for proposals or other solicitation documents.

The Federal Aid Coordinator requests the DBE Goal assessment from ADOT using the DBE Foal Request Application. After electronically submitting a request for DBE foal, ADOT will return a Goal Assessment Request electronically with the DBE Contract Goal Assessment and expiration date of the DBE goal.

This process is initiated during the final review phase of the project's design. Information on construction contract DBE Goal setting is available on the ADOT website for LPA Contract Compliance. A link is provided: <https://dbegoals.azdot.gov/>

DBE Contract Goal Assessment

The DBE Contract Goal assessment provided by ADOT BECO is valid for 120 days from the date of the electronic notice. A solicitation for a Federal-aid project must include a valid assessed DBE Contract Goal and shall be advertised before the expiration date of the DBE goal. Once the contract is advertised, the DBE contract goal will remain the same for the contract. If the contract is not advertised before the expiration date of the DBE goal, MCDOT must resubmit the DBE goal request for a new DBE goal from ADOT BECO.

After contract award and execution, MCDOT will enters contract award, DBE commitment /information, prime payments, and other required data in the LPA DBE tracking system

The CA Agency must administer the bid advertisement and contract award in compliance with 23 C.F.R. § 635.112 and Arizona Revised Statutes (A.R.S.) §§ 34-201 through 34-203.

On-Line Bidders List Requirements for Contract Award Eligibility

All bidders complete an On-line Bidders List at AZUTRACS and submit the corresponding Bidders List Email Confirmation Notice to MCDOT by 4:00 pm on the 5th calendar day after bids are opened. MCDOT collect the Bidders List Email confirmation notice from all bidders as one component of qualifying a contractor as eligible for award of a contract.



Contract Award & Concurrence

Contracts for the construction of FAHP projects will be awarded under 23 U.S.C. § 112, 23 C.F.R. Part 635, and A.R.S. § 34-221. MCDOT must award the contract competitively to the responsible contractor that submits the lowest responsive bid. When a DBE contract goal has been determined for a federal-aid contract, all DBE documentation must be submitted and approved. MCDOT may not award a contract to a contracting firm until ADOT BECO has concurred with recommended award and has provided a Bid Verification Notice to MCDOT.

Reporting Contract Awards

Following a contract award, MCDOT must submit an electronic copy of the executed construction contract to the ADOT PM for ADOT and FHWA's records. The Contract Compliance Officer will also submit the FHWA Monthly Report of contract award data to ADOT BECO by the 10th day of each month as required. If no contract award has been completed on any given month, an electronic message must be sent to Contractcompliance@azdot.gov stating "no contract awarded for (state month)."

Payment Reporting

Payments to prime contractors and subcontractors are required to be reported in the ADOT LPA DBE System by the 7th of every month for active projects. The ADOT LPA DBE System is based on monthly "audit" reporting periods, with each audit period is available at the beginning of the following month. The audit is based on the previous month and date a payment is made to the contractor. If two or more payments are made in one month, the total for the month and date of the first payment is reported in the LPA System, along with a note detailing the amount and invoice number of each payment. If no payments were made during a month then zero would be reported. An audit example: payments made to the prime contractor/consultant in July should be entered when the July "audit" screen opens August 1, and must be entered no later than the 7th of the month. Prompt Payment requirements in the contract provisions apply to the Prime promptly paying subcontractor/subconsultants. The prime contractor must also report payments to subcontractors timely according to Prompt Payment and Payment Reporting Specifications included in every federal-aid contract and subcontract. Sanctions in the form of liquidated damages could be applied for noncompliance.

Transportation Management Plan (TMP) Provisions

Per 23 CFR Part 630, each significant project receiving federal funds must have a Transportation Management Plan (TMP). A TMP consists of strategies to manage the work zone impacts of a project. The PS&Es shall include either a TMP or provisions for contractors to develop a TMP. If the provisions include a contractor-developed TMP, it is likely that corresponding bid item(s) should also be included. A contractor-developed TMP shall be subject to the approval of MCDOT, and shall not be implemented before it is approved by MCDOT.

The TMP consists of the following components:

- A Temporary Traffic Control (TTC) Plan



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- Either a reference to specific TTC elements in the MUTCD, approved standard TTC plans, or be designed specifically for the project.
- Transportation Operations (TO)
 - Includes the identification of strategies that will be used to mitigate impacts of the work zone on the operation and management of the transportation system within the work zone impact area.
- Public Information (PI) Components
 - Includes communications strategies that seek to inform affected road users, the general public, area residences and businesses, an appropriate public entities about the project, the expected work zone impacts and the changing conditions of the project.

Contract Inclusions for Federal Eligibility:

Other documents that should be included in the project's Special Provisions are:

- Buy America Requirements (Stored Spec: 106DMAT)
- DBE Special Provisions (Stored Spec: EPRISE) - Current and accurate version
- Provide On-The-Job Training (Stored Spec: 923TRN) – if applicable
- Form FHWA 1273 – Contract Provisions for Federal-Aid Construction Contracts
- Notices to Prospective Federal-Aid Construction Contractors
- Most Current Wage Decision(s) for compliance with Davis-Bacon Act
- Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity
- Title VI Civil Rights Act Compliance provisions
- Environmental Mitigation Special Provisions
- Inclusion of either a TMP or provisions for contractor to develop a TMP

The Construction Engineer should also request a copy of the project advertisement package, the pre-bid meeting notes, and any questions that were submitted by the contractors prior to bid opening. An Award Questionnaire which evaluates bids is completed by the Design Project Manager in support of their recommendation for award. A copy of the Contract Award Letter issued by the County Procurement Office and the Construction Notice to Proceed from the Chief Construction Engineer should also be requested and placed in the project file in the event the project is selected for an audit.

IV.2.2: Professional Services Contracts (Consultant)

These types of contracts include those for Design; for Construction Management, which may also include Survey Services or Material Testing Services; Survey Services as its own contract; or Material Testing Services as its own contract.

As a subrecipient of FHWA funds, MCDOT must have contracts assessed for a DBE goal prior to advertising by submitting a DBE Goal Worksheet to the ADOT Business Engagement and Compliance Office (BECO). This process is discussed later in this section for each type of Consultant Contract. As an additional condition to received federal funds, the LPA Agreement



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with ADOT requires the Prime Consultant and their subconsultants to utilize the DBE Tracking and Reporting Database (LPA DBE Reporting System) to report payments made to subconsultants.

It is a requirement of federal funding that consulting firms must be prequalified with ADOT Engineering Consultant Section (ECS) prior to submitting SOQ. Information on pre-qualification can be found here:

Outline of the overall process for Professional Services Contracts (Consultant)

- Prepare Scope of Work and set target dates for selection process
 - Ensure SOW includes TMP review procedure
- Request the DBE contract Goal from ADOT
- Advertisement (Advertisement can't begin until FHWA project authorization (Form AZPR2X), or prior approval for advertisement of Professional Services is received from ADOT/FHWA)
- Pre-Submittal Conference (optional)
- Receive and review Statements of Qualifications
- Shortlist of Firms
- Interviews (Optional-At MCDOT's Discretion)
- Notification of Consultant Selection
- Consultant Fee Negotiations and Contract Verification
 - Includes DBE Commitment Affidavits and Federal Acquisition Regulation (FAR) Compliant OH
- Board of Supervisor (BOS) approval of Contract
- Contract Award
- Issue NTP

MCDOT has developed a Statement of Qualifications checklist (Appendix F.2.1) where the Contracts Manager and the Project Manager or Construction Engineer go through the required steps and set target dates from contract concept, developing a scope of work, advertising, accepting SOQs from interested consultants, shortlist and interviews, final selection, negotiation of fees, Management signatures and Board approval, final Contract Award and Notice to Proceed.

Types of Professional Services (Consultant) Contracts

On-Call Contracts

As a subrecipient of FHWA funds, MCDOT must have their projects assessed for a DBE goal prior to advertising a contract by submitting a Request for DBE Goal Assessment to the ADOT Business Engagement and Compliance Office (BECO).

All MCDOT Federal-Aid contracts are assessed for DBE contract goals, including but not limited to architectural/engineering, construction, professional services, and procurement projects/contracts.



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Prior to contract advertisement, MCDOT staff must submit a request for DBE contract goal through ADOT's Online DBE Goal System.

The DBE Contract Goal assessment provided by ADOT BECO is valid for 120 days from the date of the electronic notice. A solicitation for a Federal-aid project must include a valid assessed DBE Contract Goal and shall be advertised before the expiration date of the DBE goal. Once the contract is advertised, the DBE contract goal will remain the same for the contract. If the contract is not advertised before the expiration date of the DBE goal, MCDOT must resubmit the DBE goal request for a new DBE goal from ADOT BECO.

Information on Professional Services DBE Goal setting can be found here:
www.azdot.gov | [DBE Contract Compliance](#) |

The consultant is required to complete an On-Call Contract DBE Goal Commitment Form during the submittal of the initial cost proposal and other contract documents to confirm their commitment to the DBE Goal set for the contract. Later, when a Task Order is assigned, the consultant must either complete the DBE Intended Participation Affidavit – Consultant Form which specifically identifies the sub-consultants and estimated amount(s) to be awarded to DBE sub-consultants for the DBE credit, or present documentation of Good Faith Efforts.

The approved Bid Documents, including affidavits, are approved, scanned and placed in the project file and uploaded to ADOT LPA DBE System. MCDOT is required to enter the reportable contracts in the LPA DBE system; which includes subconsultants, subcontractors, DBE and non-DBE firms.

Payments to prime contractors and subcontractors are required to be reported in the ADOT LPA DBE System every month of the active project, based on the month the payments were made to the contractor. If two or more payments are made in a month, the total for the month and date of the first payment is reported in the LPA System, along with a note detailing the amount and invoice number of each payment. If no payments were made during a month then zero would be reported. The ADOT LPA DBE System is based on monthly "audit" reporting periods, with each audit period available at the beginning of the following month. For example, payments made in July should be entered when the July "audit" screen opens August 1, and no later than the 6th of the month. Prompt Payment requirements in the contract apply and the subconsultants should be paid according to Prompt Payment and Payment Reporting Specifications included in every federal-aid contract and subcontract. Sanctions in the form of liquidated damages could be applied.

If the prime consultant cannot meet the task goal this affects the contract goal. The Termination, Substitution, Replace DBE requirements from the LPA DBE Special Provisions will apply. In these events, the form for [Termination/Substitution/Reduction Request-3108C](#) must be filled out by both the Prime and



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Sub-consultant. Prior to filling out this form, a letter from the Prime to the Sub-consultant is required explaining the reasons for the change and a letter back from the Subcontractor, on their letter head, agreeing to the change.

For all on-call contracts intending to receive partial or full federal-aid reimbursement, MCDOT must receive from the Consultant confirmation of:

1. Non-Collusion Statement.
2. Statement that no federal appropriated funds were paid for the purpose of lobbying.
3. A Federal Acquisition Regulation (FAR) compliant cost accounting system.
4. Title VI compliance.
5. Compliance with the DBE Goal and/or Commitment.
6. Conformance to various MCDOT policies regarding consultants.

This may be achieved by obtaining a checklist of certifying statements from the consultant that is submitted with each Statement of Qualifications to assure each consultant under consideration for the contract has or will comply with these federal requirements.

Project Specific Contracts

The previously discussed DBE processes and requirements for On-Call contracts also apply to Project Specific contracts.

Prior to contract advertisement, MCDOT staff must submit a request for each FHWA DOT-assisted contract to be assessed for a DBE goal through ADOT's Online DBE Goal Setting System at: <http://www.azdot.gov/business/business-engagement-and-compliance/dbe-compliance/dbe-contrac>

The DBE Contract Goal assessment provided by ADOT BECO is valid for 120 days from the date of the electronic notice. A solicitation for a Federal-aid project must include a valid assessed DBE Contract Goal and shall be advertised before the expiration date of the DBE goal. Once the contract is advertised, the DBE contract goal will remain the same for the contract. If the contract is not advertised before the expiration date of the DBE goal, MCDOT must resubmit the DBE goal request for a new DBE goal from ADOT BECO.



IV.3: CONSTRUCTION COORDINATION AND ASSIGNMENT OF RESPONSIBILITIES

IV.3.1: Liaison with ADOT

In accordance with ADOT LPA Manual and LPA Certification Acceptance (CA) Academy, every project with Federal Funds that is being administered by MCDOT will have the following two primary ADOT Liaisons.

- CA Coordinator LPA Section
- Project Manager (Project Management Section)

For certain circumstances, additional contacts may be the District Engineer and the ADOT State Engineer for the Construction & Materials Group.

- District Engineer (DE)
- ADOT State Engineer for the Construction & Materials Group

Certification Acceptance Coordinator (LPA Section)

The Certification Acceptance Coordinator will work with MCDOT on federal aid program-specific processes and issues. The CA Coordinator will work with the ADOT LPA Section and appropriate ADOT technical teams to resolve program related issues that may arise on a project. They will also be involved in any State or Federal audits that are required for the project.

Project Manager (Project Management Section)

ADOT will assign a project manager to be a liaison between MCDOT and ADOT during the design phase of the project. Once construction begins, the Construction Engineer should have communication with the ADOT Project Manager (ADOT PM) for project-specific matters and issues. The ADOT PM must be involved in any Change Order, Claim, and ADOT's Business Engagement and Compliance Office (BECO) issues and audits.

When a project requires a Change Order the ADOT PM must be notified as discussed in Section IV.11 of this chapter. If a Change Order adversely affects any item of work, such as eliminating or decreasing, related to a subcontractor committed as a DBE through a contractor's affidavit, the ADOT PM and ADOT BECO must be notified.

The ADOT PM should be notified if a request for public records is filed. A copy of the files resulting from the request should also be sent to the ADOT PM for their records.

The ADOT PM is invited to the Pre Construction Meeting, the Partnering Conference, and is included on the distribution list for the weekly meeting minutes.



District Engineer Central District

There are instances where prior concurrence from the ADOT District Engineer (DE) or his/her designee is required on Change Orders. For more information on the change order process, refer to Section IV.11 of this chapter.

ADOT State Engineer for the Construction & Materials Group

When a time extension is compensatory, then the compensatory costs for the contractor's field and office overhead needs to be concurred by the ADOT State Engineer for the Construction & Materials Group

IV.3.2: Liaison with the FHWA

FHWA has now given ADOT's LPA section and MCDOT more responsibility and accountability in administering federal aid funds. FHWA staff members conduct fewer reviews and inspections for specific projects than in the past, focusing instead on reviewing operational processes. MCDOT is required to assure compliance with all federal requirements, including conducting periodic field inspections or reviews.

At the time of this printing, the directive is for ADOT to review significant change orders on projects for federal-aid eligibility, and only eligible expenses will be accepted for reimbursement. FHWA will review and approve significant change orders on Projects of Division Interest (PODI) for eligibility of reimbursement. *As discussed in Section IV.11 of this chapter, all significant change orders requiring FHWA approval should go to the ADOT DE, who will forward to FHWA.*

MCDOT sends all communication to ADOT and does not contact FHWA directly. ADOT manages all communications with FHWA. If MCDOT needs to meet with FHWA, the meeting is arranged by ADOT.

IV 3.3:MCDOT Designated Personnel

In accordance with 23 C.F.R. § 635.105(c)(3), MCDOT must be adequately staffed and equipped to perform necessary work efficiently and cost effectively, including the supervision and training of staff. MCDOT has identified the following designated qualified personnel:

- Designated Approval Authority
- CA Liaison – Kimberly Richards
- Responsible Charge
- ADA Coordinator – Kimberly Richards
- DBE Liaison – Beverly Krumm
- ROW Agent
- Title VI Coordinator – Kimberly Richards

MCDOT is required to assure compliance with all federal requirements, including conducting periodic field inspections or reviews.



IV.4: DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

In partnership with ADOT and FHWA, MCDOT is committed to administering federal-aid projects in adherence to federal requirements. MCDOT will follow the most current version of the CA Manual to delivering FAHP contracts in compliance with federal and state laws and regulations and manage federal-aid funds effectively and efficiently.

MCDOT follows the ADOT DBE Program guidelines and procedures ensuring that DBE program requirements are met on its FAHP assisted contracts. This includes ensuring compliance with applicable DBE contract provisions and ensuring data collection and monthly reporting related to DBE participation is submitted to ADOT as prescribed in the DBE Program Plan.

DBE Program Compliance Required Activities

In accordance with the DBE Program Plan Compliance Statement, MCDOT has designated a DBE Liaison, responsible for adopting and implementing ADOT's DBE Program Plan, related procedures and contract specifications. As a Certification Acceptance Agency, MCDOT does the following:

- Affirms and consent by signing ADOT's Certification Acceptance Agreement, assuring its adherence to ADOT DBE Program Plan and concomitant procedures.
- Follows the guidelines, procedures, and uses the contract specifications and forms developed by ADOT to implement its DBE the program.
- Participates in training conducted by ADOT related to DBE requirements and program regulations
- Requires firms that work on DOT-assisted contracts to register and secure an AZ UTRACS registration number via the AZ UTRACS web portal.
- Encourages small firms to register as an SBC via the AZ UTRACS web portal.
- Utilizes certified DBEs found in the AZ UTRACS web portal.
- Submits all FHWA DOT-assisted contracts to ADOT to be assessed for a DBE goal.
- Includes DBE contract goal as provided by ADOT in FHWA contract bid advertisement, bid package, statement of qualification, request for proposal or other solicitation documents.
- Includes applicable DBE contract specifications as provided by ADOT in all DOT-assisted contract bid advertisement, bid package, statement of qualification, request for proposal or other solicitation documents.
- Notifies the ADOT PM and ADOT BECO in writing immediately following bid opening of a DOT assisted design or construction project if the apparent low bidder or selected consultant indicates on the DBE Assurance Form that the DBE contract goal cannot be met.
- Submits all Good Faith Effort documentation to ADOT BECO for review and concurrence prior to awarding of DOT-assisted contracts.



- Collects DBE Affidavits (FHWA-funded contracts only), bidder/proposer list confirmation email and all other ADOT required forms and submits to ADOT according to guidelines provided in the Construction and Professional Services Contract Checklists
- Ensure the receipt of Bid Verification Notice from ADOT BECO prior to contract award.
- Enters contract award, DBE commitment/information, prime payments, and other requested data in the LPA DBE tracking system
- Submits contract data in support of monthly, semi-annual and annual federal reporting submission made by ADOT. MCDOT is required to use the ADOT LPA DBE Reporting System, via www.arizonalpa.dbesystem.com.
- Monitors and enforces that contractors enter and report payments monthly in the LPA DBE System and that Prompt Payment of DBEs and other subcontractors are monitored and enforced.
- Implements monitoring and enforcement mechanisms to enforce the terms of the contract, including application of applicable sanctions, as needed, for payment reporting, prompt payment, DBE termination/substitution and not meeting the DBE contract goal.
- Conducts site reviews to ensure all DBEs are meeting a Commercially Useful Function on each DOT-assisted contract.
- Follows DBE contract specification to notify ADOT BECO and ADOT PM in writing to secure ADOT BECO's approval prior to any termination, substitution, or reduction of work of a committed DBE firm used to meet the contract goal.
- Monitors DBE utilization on projects and notifying ADOT BECO as soon as MCDOT is aware of a potential issue that may affect DBE commitments made at award.
- Ensures that all DBE Certification of Final Payment Forms are submitted by contractors and submits a copy of MCDOT's Final Acceptance Letter to ADOT BECO.
- Provides ADOT with monthly reports on awards, payments and DBE utilization by the 7th day of each month.
- Ensures timely contract closeout by ensuring all subcontractor payments are reported in the DBE System, closeout contracts in the LPA DBE reporting system, and complete all mandatory reporting requirements in the LPA DBE system by April 1st and October 1st of each year in order for ADOT to prepare for the Semi-Annual report.

Solicitation and Bid Package Requirements

Federal-aid contracts must be assessed for a DBE contract goal. Prior to contract advertisement, MCDOT staff must submit a request for each Federal-Aid contract to be assessed for a DBE goal through ADOT's Online DBE Goal Setting Application: <https://dbegoals.azdot.gov/>.

The DBE Contract Goal assessment provided by ADOT BECO is valid for 120 days from the date of the electronic notice. A solicitation for a Federal-aid project must include a valid assessed



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DBE Contract Goal and shall be advertised before the expiration date of the DBE goal. Once the contract is advertised, the DBE contract goal will remain the same for the contract. If the contract is not advertised before the expiration date of the DBE goal, MCDOT must resubmit the DBE goal request for a new DBE goal from ADOT BECO.

The bid advertisement will include specific DBE special provisions according to the DBE Contract Goal assessment. The DBE Special Provisions (EPRISE) are required in all federal-aid Contracts.

MCDOT will notify the ADOT PM and ADOT BECO in writing immediately following bid opening of a federal-aid contract if the apparent low bidder or selected consultant indicates on the DBE Assurance Form that the DBE contract goal cannot be met.

During the bid submittal process, MCDOT will collect all required bid documentation from each bidding contractor. To be considered responsible and eligible for award of a contract, a bidding contractor that has indicated in its bid that it met the DBE goal or made good faith efforts must submit the required information no later than five calendar days after bid opening.

If the bid of the apparent low bidder is rejected for any reason, the next low bidder may become the apparent low bidder only if it had submitted the required information, no later than five calendar days after bid opening.

Bid Verification Documents

MCDOT will review all submitted bid documents after the five day allowance to submit has expired. MCDOT will ensure that all information is complete, accurate, adequately documented and the bidder/offer's good faith efforts are approved before a contract award and commitment to the performance of the contract by the bidder/offeror is made. After review and determination of responsiveness, MCDOT submits the form and decision to BECO for concurrence prior to awarding contract.

At Time of Award – Contract Execution

MCDOT will verify the executed contract between the contractor and MCDOT contains the following documents:

- LPA EPRISE Contract Language (with or without DBE Goal)
- DBE Assurance and DBE Affidavits (Individual and Summary)
- TSR Request Form
- Certification of Payment to DBE Firm (COP) Form
- LPA Prompt Pay and Payment Reporting Provisions
- EEO Compliance Report
- OJT Specifications (when applicable)



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MCDOT submits contract awards and DBE commitments via the FHWA Monthly Report to BECO by 10th of every month using the template provided and send electronically to: LPAContractorCompliance@azdot.gov

Pre-Construction Meeting Requirements for DBE Subcontractors Document Submittals

The prime contractor must provide to the Construction Engineer, at the pre-construction conference, copies of all completed and signed subcontracts for each DBE. All subcontracts require MCDOT approval. Normally MCDOT has an Office pre-construction meeting prior to the formal pre-construction meeting during which the process for getting the subcontractors approved and entered into the ADOT LPA DBE System is discussed. MCDOT will upload a copy of the DBE Intended Participation Affidavit(s) into the system for each project.

Initiating System Contracts and SRF Approval Process of Subcontractors

MCDOT will upload contract information by “initiating the contract” in the LPA DBE Reporting System. Contractors must enter all reportable Contract (DBE and non-DBE) information into LPA DBE System after MCDOT initiates the contract. This must be completed within 15 calendar days after preconstruction conference.

The prime contractor will submit the Subcontract Referral Form (SRF) to the Construction Engineer for every subcontractor that will be working on the project. Once reviewed and the SRF process has been completed, the Construction Engineer will sign and approve the SRF form. The prime will add all additional subcontract information within 5 days of MCDOT approval.

Monitoring DBE Utilization

Monitoring DBE Utilization to meet the committed DBE goal is one of the key components to ensuring compliance requirements are followed, DBE utilization is the responsibility of the prime contractor and is a condition of contract award. During the life of the contract and construction phase, the Construction Engineer will also monitor DBE utilization and compliance should be included on the weekly meeting agenda.

At approximately 50% and 80% of project completion, and also at substantial completion, the Construction Engineer shall evaluate DBE utilization and any TSR or GFE documentation if applicable, to determining if the assessed DBE goal will be met. MCDOT will make the determination and will notify ADOT BECO for concurrence.

Termination/Substitution/Reduction (TSR) in Scope of Work

In the event a DBE firm is not performing and the contractor has made the best effort to work with the subcontractor, the contractor may request approval to replace the firm or reduce the subcontracted work amount. MCDOT will notify BECO immediately when receiving notification from the contractor. The Prime contractor is required to submit a written notice to the DBE subcontractor explaining the reasons for the change and must allow five days for the Subcontractor to respond to the notice. All written documentation and notices should be provided on each contractor’s business letter head. The MCDOT Construction Engineer should be included with a courtesy copy of all notices and all documentation. The Prime contractor will



also complete the Termination/Substitution/Reduction Request-3108C form, collect applicable signatures from subcontractor and Construction Engineer and submit to ADOT BECO for approval.

If for any reason it becomes apparent that the DBE goal will not be met then the contractor shall: (1) immediately notify the Construction Engineer of the potential or actual decrease in DBE compensation, and (2) make good faith efforts to obtain DBE participation to meet or exceed the DBE contract goal. Good faith efforts required under the provisions of this section may vary, depending on the time available, the nature of the change, who initiated the change, and other factors as determined by MCDOT. Once documentation is reviewed, MCDOT will approve or deny the contractor's good faith efforts with BECO concurrence.

DBE TSR Sanctions

MCDOT must approve a TSR request prior to the contractor making changes to the contract. The Prime contractor cannot terminate, substitute, or reduce work and is subject sanctions if changes are made to a DBE contract without following proper protocol. A contractor may not self-perform the work of the terminated/substituted/reduced DBE firm without prior approval from MCDOT and BECO. MCDOT may consider sanctions when the contractor fails to follow the TSR process for any DBE listed on the bid documentation DBE affidavits.

Commercially Useful Function (CUF)

Another component of monitoring the DBE utilization is ensuring the DBE firm is performing a commercially useful function of the committed contract work. The prime contractor ensures DBEs on the project are performing CUF in accordance with LPA EPRISE Section 18.06 and will receive DBE utilization credit only when there is signed certification of the DBE performing a Commercially Useful Function. MCDOT will conduct project site visits to confirm all DBE firms on the project are in compliance and will complete the Commercially Useful Function (CUF) review using the CUF Checklist. This checklist certifies with a signature that CUF is performed and uploads the documents to the LPA DBE System. The CUF Checklist is provided by MCDOT.



ADOT LPA DBE Reporting System Login Screen



[Home](#) [Help / Support](#)

The ADOT LPA system is part of the AZ UTRACS Transportation Business Portal. It is a web-based solution allowing Local Public Agencies to monitor contract compliance for federally funded Arizona DOT projects. Firms working on contracts with a Local Public Agency also use this site to report or confirm payments on active contracts.



Access to the LPA DBE System

MCDOT's contract requirements include payment reporting for all federally funded contracts. This system allows MCDOT to track utilization of DBE firms, for reporting and also ensures that both federal and state prompt pay requirements are met. Data from contracts in the DBE system capture DBE utilization and prompt pay throughout the life of the contract.

To gain access to the ADOT LPA DBE System, from the LOG IN screen (pictured above) select the blue LOG IN Button and select the ACCOUNT LOOKUP link. A form will open and select the applicable User Support or Customer Support

Payment Reporting and Prompt Payment Monitoring

Each month when MCDOT issues payment to the prime contractor and the Construction Engineer will report the payment to the prime in the LPA DBE Reporting System by the 7th day of the month following the month with which the payment was made. MCDOT will monitor the LPA DBE System on the 1st day of every month to ensure the prime contractor has reported payments to subcontractors by the last day of the previous month's audit. This process follows the Payment Reporting and Prompt Payment Specifications included within all federal-aid contract provisions.

MCDOT monitors contracts monthly to ensure compliance with payment reporting provisions. If subcontractors do not verify payments within 45 days of contractor reporting payment, MCDOT may consider action to confirm payment in the LPA DBE System and accepts it as promptly paid unless a dispute arises.



MCDOT will monitor the LPA DBE System for discrepancies between payment reported by prime contractors and verification of payments made by DBE and other subcontractors. MCDOT will investigate any prompt payment discrepancies in the DBE System and any complaint regarding prompt payment to DBEs and other subcontractors. If a subcontractor does not agree with the amount of payment entered in the system, they will initiate a discrepancy in the program stating the difference in pay. The Construction Engineer will determine whether the contractor has acted in good faith concerning any such explanations.

Sanctions for Inadequate Reporting

MCDOT monitors contracts monthly to ensure compliance with payment reporting. If payments are not reported monthly, sanctions may apply in accordance with Prompt Pay and Payment Reporting Provisions. MCDOT will notify the contract and ADOT if sanctions will be imposed.

Sanctions for Prompt Payment Non-Compliance

If payments are not made promptly, MCDOT may apply sanctions in accordance with Prompt Pay and Payment Reporting Provisions. MCDOT will review contractor's documentation when making compliance determinations and considers sanctions. MCDOT will notify the contractor of sanctions are to be imposed.

Certification of Final DBE Payments

To count toward meeting a DBE goal, credit towards the contractor's DBE goal is given only after the DBE has been paid for the work performed. The contractor's achievement of the DBE goal is measured by actual payments made to the DBE. The contractor shall submit the "Certification of Final DBE Payments" form for each DBE firm working on the contract. This form shall be signed by the contractor and the relevant DBE, and submitted to MCDOT no later than 30 days after the DBE completes its work. MCDOT uses this signed certification as one component to determine applicable DBE credit allowed by the contractor and the extent to which the DBE firms were fully paid for that work. Completing and signing the forms is acknowledgement that the information is supplied in order to justify the payment of state and federal funds to the contractor. The contractor will not be released from the obligations of the contract until the "Certification of Final DBE Payments" forms are received and deemed acceptable by MCDOT.

Reports

MCDOT assists ADOT with federal reporting two time a year by managing contracts in the LPA System. It is essential to monitor contracts and clear up all incomplete contract audits in the ADOT LPA DBE System before May 1st and November 1st of each year to ensure timely and accurate semi-annual reporting to the federal agencies. MCDOT communicates to all prime contractors and consultants prior to these dates and supports efforts to report accurately, asking contractors to do the same.

Contract Closeout

MCDOT monitors contractor's compliance in meeting the DBE Goal throughout the life of the



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contract. At or near the time of substantial completion, MCDOT evaluates all documentation to determine if the contract DBE Goal was met and accomplished in good faith. Once decided, MCDOT provides a Completion Cover Letter to the ADOT Project Manager and ensures a timely closeout of the system, preferably within 30 days of final contract closeout.



IV.5: ON-THE-JOB TRAINING (OJT)

As of November 6, 2019, ADOT and FHWA are working on updating the On-The-Job Training (OJT) program and there is no OJT program for LPA agencies.

This section is intentionally left blank.



IV.6: TITLE VI INFORMATION SUMMARY

Title VI of the Civil Rights Act of 1964 provides the main legal basis for the Maricopa County Department of Transportation's (MCDOT) external nondiscrimination programs. Title VI prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance. If an agency accepts federal funds, all of its programs and activities are covered, regardless of their funding source. Related statutes and presidential executive orders under the umbrella of Title VI address minority and low-income populations and services to those individuals with limited English proficiency (LEP), women and the disabled.

MCDOT cannot, on the basis of race, color, or national origin either directly or through contractual means, take any of these actions:

- Deny program services, aids or benefits.
- Provide a different service, aid or benefit, or provide them in a manner different from what is provided to others.
- Segregate or separately treat individuals in any matter related to the receipt of any service, aid or benefit.
- Deny an opportunity to participate as a member of a planning, advisory or similar body that is an integral part of the program.

Any federal financial aid sub-recipient is required to administer its program and activities without regard to race, color, or national origin.

MCDOT's Title VI program is enforced in the following ways:

- Conducting internal and external compliance reviews.
- Conducting Title VI Program implementation training to staff, suppliers, vendors, contractors, and other sub-recipients of federal funds.
- Developing Title VI compliance information for internal and external dissemination.
- Processing the disposition of Title VI complaints received by MCDOT.
- Working closely with the Arizona Department of Transportation (ADOT) to ensure optimal Title VI performance by MCDOT. ADOT is the steward and approving authority for these programs as they relate to transportation in Arizona.

Complaints may be filed by any person, in English or Spanish, who believes that he or she has been excluded from, participation in, denied the benefits of or otherwise subjected to discrimination under any MCDOT service, program activity, and believes the discrimination is based upon race, color, or national origin. Complaints may be filed with MCDOT's Title VI Coordinator:

Maricopa County Department of Transportation
MCDOT Title VI Nondiscrimination Program Coordinator
2901 W. Durango Street



Phoenix, AZ 85009-6357

The implementation of MCDOT's Title VI program requires the Title VI poster to be included on the contractor's bulletin board. This item is included in the list of bulletin board requirements addressed in the next section.

MCDOT's Title VI poster shall be on the Project Bulletin Board, in each corporate and satellite office, and posted on a lath at regular intervals on the project site. Photos of displayed poster(s) are to be kept in project files.



IV.7: BULLETIN BOARD REQUIREMENTS

Certain postings and notices are required on all projects that receive federal funds. These are supplementary postings beyond the usual postings required in a place of business. The Construction Engineer is cautioned to differentiate between those postings required by a business and those postings required to be on a construction project bulletin board.

The Construction Engineer should see that the following posters and provisions (as included in the contract) are posted prominently by the Contractor on a bulletin board:

Federally required posters can be found online at [FHWA Job Site Posters](#) | [AZ Required Workplace Posters for State Government Agencies](#)

- EEO Poster (EEOC-P/E-1) Equal Employment Opportunity is the Law Poster in English and Spanish (11-2009)
- EEO Supplement - Equal Employment Opportunity is the Law Supplement in English and Spanish (09-2015)
- Fraud Poster (Form FHWA-1022) required by Title 18 of the United States Code, Section 1020
- Safe Work Place Poster (Form OSHA 3165-02 2012R; OSHA 3167-01-07R) in English and Spanish
- Employee Rights under the Davis-Bacon Act (Minimum Wage) Poster (WH-1321 and WH-1321 SPA) in English and Spanish
- Employee Rights Under the Fair Labor Act (Minimum Wage) Poster (WHD 1088 and WHD 1088SPA) in English and Spanish
- Employee Rights Under the Employee Polygraph Protection Act Poster (WHD 1462 and WHD 1462SP) in English and Spanish
- Employee Rights and Responsibilities Under the Family and Medical Leave Act (WHD 1420 and WH 1420SP) in English and Spanish
- Pay Transparency Nondiscrimination Provisions English and Spanish (Presidential Executive Order No. 11246) English and Spanish
- Job Safety and Health IT'S THE LAW (OSHA 3165-04R 2015 and OSHA3167-04R 2015) in English and Spanish
- Your Rights Under USERRA (USERRA Poster April 2017)
- MCDOT's Title VI Notice to the Public in English and Spanish
- Required Contract Provisions for Federal Aid Construction Contracts (FHWA-1273)
- Davis Bacon Wage Decision as printed in the project Special Provisions
- EEO Policy of the Contractor and major Subcontractors, with name and contact information of contractor's EEO Policy Enforcement Officer
- List of safety officers for the Contractor with contact information and major Subcontractors
- Emergency contact telephone numbers



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- The Notice of Intent for Storm Water Discharges (EPA form 3510-618-98)

Business work posters required by Arizona law can be found online at www.hr.az.gov | [Policy – Legislative Services](#) | [Required Posters](#)

- Constructive Discharge (A.R.S 23-1502)
- Discrimination is Prohibited in Employment
- Notice to Employees: You are Covered by Unemployment Insurance (POU-003 and POU-003-S) in English and Spanish
- Safety and Health Protection on the Job
- Smoke-free Arizona “No Smoking” Sign
- Work Exposure to Bodily Fluids
- Workers Compensation Law (Notice to Employees, Contractor to Fill in Policy Number on poster) in English and Spanish

Additional recommended postings include:

- Map depicting location of project and nearest medical facilities; and
- OSHA postings and other project safety and security information.

The size, location, lighting, and visibility are not specified in the contract, except as noted in the quotations below (taken from the federal requirements in a typical special provision):

"Contractor agrees to post in conspicuous places, available to employees and applicants for employment...shall be posted at all times by the Contractor and their Subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers."

The Construction Engineer should see that the contractor furnishes a bulletin board of sufficient size to accommodate all of the required posters: generally, an area of 24 to 32 square feet is sufficient. The bulletin board should be suitable for outside installation and covered with a transparent window for the purpose of displaying required posters on the project.

The various required posters (Appendix F.7.1) are periodically updated; those found in Appendix F of this manual are the most current at the time of publication.

Although not required, the Construction Engineer typically gives the contractor one of each of the posters at the Pre-Construction Conference. Before doing so, a couple of these posters require contact information to be entered onto the poster. The Fraud Poster, required by Section 1020, Title 18, United States Code, must be displayed during the course of the work. The poster has two blank boxes for the Construction Engineer to fill in.

- For the FHWA box, enter:
4000 North Central Avenue, Suite 1500, Phoenix, AZ 85012



- In the State Highway Department box, enter:
Maricopa County Dept. of Transportation
Attn: Chief Construction Engineer
2901 W. Durango Street
Phoenix, AZ 85009

On the Form WH-1321 and WH-1321 SPA (Employee Rights Under the Davis-Bacon Act) poster, place the name, address and phone number of the Construction Engineer who is administering the contract. If this is a consultant working on behalf of MCDOT, then the consultant Construction Engineer and contact information is to appear in this box.

Once the bulletin board has been established, the project inspector should perform an Inspection to verify all necessary items have been placed. An example of the Inspection Form can be found in Appendix F (Appendix F.7.2).

The inspector should use the Inspection Form found in Appendix F.7.2. Any corrective action needed should be immediately addressed and resolved. The inspector should also take photos of the bulletin board for the project files for verification of required items. The Inspection of the Bulletin Board should be completed monthly after the initial establishment.



IV.8: ENVIRONMENTAL & SPECIAL PERMITS

Contractor's Permits, AZPDES, SWPPP, NOI/NOT, and Hazardous Materials shall comply with Section 107 – Legal Relations and Responsibility to the Public

Environmental Mitigation Methods

During the development of the project, MCDOT will request approval of identified Environmental Mitigation Measures from ADOT. Once the mitigation measures are approved, this document is included as an Appendix to the project's Special Provisions. In addition, a bid item and a Special Provision should also be present in the bid documents if there are other environmental issues to be addressed, such as lead abatement, burrowing owls, asbestos abatement and disposal, etc. If the project identifies asbestos abatement or if asbestos is encountered during the construction of the project, the contractor must dispose of the hazardous material in an approved landfill. The Environmental Mitigation Measures document will list the responsibilities of MCDOT and the contractor during design and construction. *It is the Construction Engineer's responsibility to establish a familiarity with that document and to enforce and document the mitigation methods for all measures where action is required as outlined in the environmental mitigation document.* If the Environmental Mitigation document requires public involvement, documentation shall be kept on file for any public involvement, as well as how the mitigation methods were met. Some items in the Environmental Mitigation document may require action prior to bid, or prior to construction, or on an ongoing schedule during construction. Some mitigation items such as the 401/401 Permit may require formal notices of starting and completion.

Borrow Sources (if Applicable)

If the project scope requires the contractor to import borrow material into the project, the contractor must get the source cleared for any environmental issues. Requirements for obtaining environmental clearances shall be stated in the project Special Provisions. It is the contractor's responsibility to submit a complete environmental clearance document for each source from which they are proposing to bring material into the project. These documents are then submitted to ADOT's Environmental Section for approval. *The contractor is not allowed to bring any material from these sources until it has been cleared by both MCDOT and ADOT.*

AZPDES Construction General Permit and Stormwater Pollution Prevention Plan (SWPPP)

See Section 107.2.1 for additional information on AZPDES compliance.

If the Environmental Mitigation Measures document states that MCDOT is requesting coverage for the project activities under the AZPDES Construction General Permit, MCDOT is required to file a Notice of Intent (NOI) to ADEQ through their online MyDEQ system after the contractors SWPPP is approved by the Construction Engineer. MCDOT will also submit an NOT after the project is completed. The Contractor is also required to file an NOI and NOT to ADEQ. *It is the*



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Construction Engineer's responsibility to ensure MCDOT and the Contractor files the required NOI and NOT with ADEQ.

401/404 Permit (if Applicable)

If the project scope requires the contractor to build any portion of the project over, adjacent, or within Waters of the United States, MCDOT will coordinate with ADOT to request a 401/404 permit from the Army Corps of Engineers. Once the permit is obtained, that document is included as an Appendix to the project's Special Provisions. That document lists the responsibility of MCDOT and the Contractor during construction. *It is the Construction Engineer's responsibility to establish a familiarity with the permit document and to enforce measures outlined as part of the 401/404 permit.* Documentation shall be kept and filed as to how the mitigation methods were met and how the contractor and MCDOT complied with the conditions of the permit.

The 404 Permit may be in two types – For small disturbed areas, normally a Nationwide Permit (NP) is used and a copy of the NP will be included in the contract. For larger disturbed areas, a Project Individual Permit is used. The Individual Permit is filed during the design phase and can take up to two years to obtain. Project Individual Permits include expiration dates for construction work to start and complete.

The contractor is required to delineate the limits of the area that can be disturbed in the Waters of the US during construction. This may be done with a barrier of some type such as a rope or plastic fence around the area. Emergency approval from both ADOT and the Army Corps of Engineers is required if, for some reason, it becomes necessary during construction to exceed the disturbed area allowed by the Nationwide Permit.



IV.9: DAVIS BACON ACT, CERTIFIED PAYROLLS AND SUBCONTRACTORS

IV.9.1 Background and General Requirements

The Davis-Bacon and Related Acts (DBRA), apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. Federally funded projects located within roadways functionally classified as local roads or rural minor collectors are also exempt (FHWA-1273, Section IV). This means that locally prevailing pre-determined wages and fringe benefits must be paid for work performed on the project (unless exempt). The Department of Labor (DOL) is responsible for determining the locally prevailing rates. In addition, prime contracts greater than \$100,000 require that overtime be paid at one and one-half times the regular hourly rate of pay for hours in excess of 40 hours worked. Depending on the types of construction work included in a project, there can be more than one wage decision depending on the types of work included in the construction scope.

Davis-Bacon and Related Acts (29 CFR Parts 1, 3, 5, 6, and 7)

These federal Acts apply to all federally funded construction contracts, except for projects with functional class code 6 (rural minor collector) or 7 (local road or street). The Davis-Bacon Act:

- Sets a prevailing minimum wage rate for various labor classifications predetermined by the U.S. Secretary of Labor to be paid to laborers and mechanics
- Requires the laborers and mechanics be paid weekly at prescribed rates for all hours worked
- Provides that fringe benefits, or wage equivalent, are to be paid laborers and mechanics when included in the U. S. Secretary of Labor's prevailing minimum wage rate decision
- Requires that the contractor post the prevailing minimum wage rates at the job site.

Copeland Anti-Kickback Act (29 CFR Part 3)

The Copeland Anti-Kickback Act, a federal law, provides regulations concerning the construction and repair of public works contracts and subcontracts exceeding \$2,000 and financed in whole or in part by federal funds. A portion of the Act concerns the payment of wages to the contractor and subcontractor employees. The Act authorizes the U.S. Department of Labor (USDOL) to develop regulations, including payroll records and submission requirements.

The Copeland Anti-Kickback Act permits certain payroll deductions, such as:

- Bona fide fringe benefits
- Any deduction made in compliance with the requirements of federal, state, or local law, such as income and social security taxes
- Any deduction required by court process, such as child support



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- Any deduction for the cost of safety equipment for the employee's own protection such as safety glasses provided the cost is nominal and the employer is not otherwise required to furnish the equipment pursuant to law.

The Act also permits certain payroll deductions from the wages of laborers and mechanics when the employee's written consent is provided, such as life insurance, hospitalization and medical insurance, retirement plan, vacation plan, safety shoes, and safety hats. Other deductions require a written application and approval of the USDOL. For example, gasoline and uniforms that are required by the employer as a condition of employment.

No monitoring responsibilities are required for certain types of personnel, contracts, and employers, such as:

- Supervisory and office employees
- Contracts or subcontractors furnishing supplies and equipment when such operations are located off-site of the project
- Contracts with a political subdivision
- Contracts or work agreements for construction work or services with railroads or public utilities when the work or services is done by their employees.

Fair Labor Standards Act (29 CFR Chapter 5)

The Fair Labor Standards Act (FLSA), a federal Act, applies to all contracts and requires contractor and subcontractor compliance with USDOL regulations.

Many of the requirements contained in this Act mirror those in the previous laws described. FLSA does, however, provide additional requirements regarding child labor, as follows.

- Children of any age are generally permitted to work for businesses entirely owned by their parents, **EXCEPT** those under 16 years of age may not be employed in mining or manufacturing, and **NO ONE** under 18 years of age may be employed in any occupation determined to be hazardous by the U. S. Secretary of Labor.
- Children under 14 years of age may not be employed on Department contracts.
- Young persons 14 and 15 years of age may be employed in non-manufacturing and non-hazardous jobs for limited periods of time and under specified conditions.
- Young persons 16 and 17 years of age may work an unlimited number of hours in any occupation other than those determined by the U. S. Secretary of Labor to be hazardous in nature.
- Individuals 18 years of age and older are no longer subject to the Child Labor Provisions of the FLSA.

The FLSA establishes an 18-year minimum age for all nonagricultural occupations determined to be hazardous in nature by the U. S. Secretary of Labor. A list of hazardous occupations may be



obtained from the USDOL website regarding FLSA Child Labor Provisions.

Additional detailed information may be obtained from the USDOL website regarding FLSA Child Labor Provisions.

VI.9.2 Certified Payrolls

Contractors and subcontractors are required to submit a Certified Payroll Report (CPR) on a weekly basis, which includes the following information:

- Employee name (address and Social Security number do not have to be on the certified payroll report, but the company must keep this information as part of the recordkeeping requirements)
- Employee work classification
- Hourly rate of pay, including fringe benefits and/or cash equivalents
- Daily and weekly numbers of hours worked
- Deductions made
- Actual wages paid

For MCDOT projects that utilize federal funds, the contractor shall submit these certified payrolls electronically using the LCP Tracker Labor Compliance Software under MCDOT's license. The contractor shall submit electronic payrolls every week, from the date of Notice to Proceed through the date of Final Acceptance, regardless if work was performed on the project or not. If no work was performed on the project, then each Prime and subcontractor that did not perform work shall submit a payroll which states "No Work Performed". Subcontractors may submit a "FINAL" payroll when their work is complete.

Once submitted, MCDOT will review the payrolls using LCP Tracker for compliance with the Davis-Bacon Act prevailing wage rates. Payrolls will be reviewed for each applicable classification using the wage decision in the Special Provisions (or modified by Addendum). This review will be conducted by MCDOT staff for MCDOT-administered projects or by Consultant staff on projects managed by a Construction Administration Consultant.

Each payroll will be accepted or rejected. Non-compliance issues will be brought to the contractor's attention within one-week of submittal. Contractor notification is made within the LCP Tracker software. Documents that the contractor is submitting as proof of issue resolution will be uploaded into the eDocuments section in LCP Tracker by the contractor so the project's CM staff can verify the information.

LCP Tracker Discussion and Project Setup

Each MCDOT user in LCP Tracker will have their own account. The LCP Tracker administrator for MCDOT will be responsible for building the new projects in the program at the time they are awarded to the contractor. In addition, this person will load new master wage decisions into



the program and may add the specific wage decision to the project; or they may choose to assign it to the Construction Engineer to complete this task.

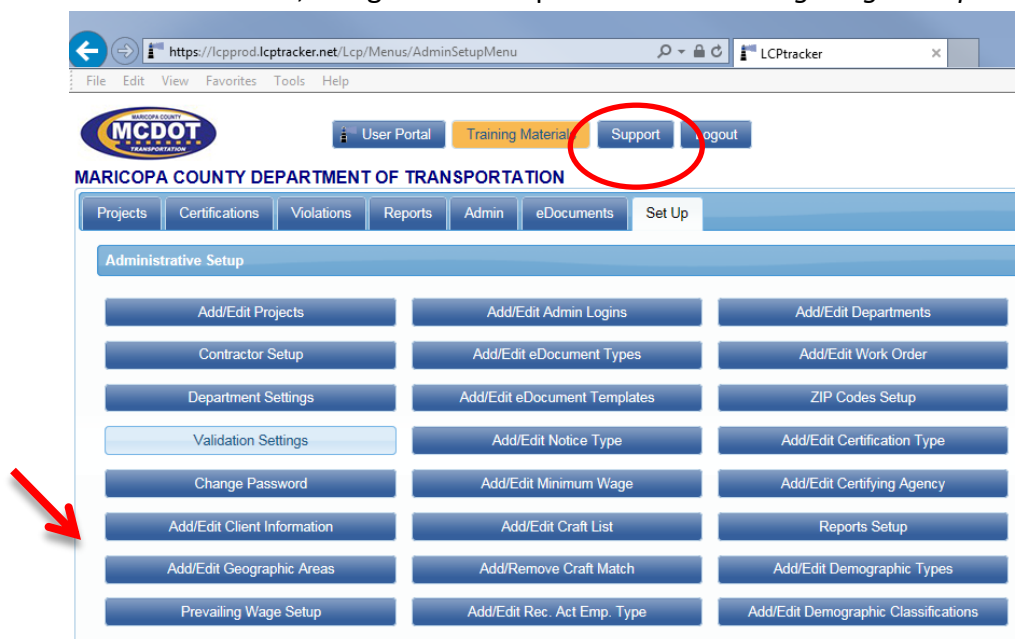
Screen shots with instructions for managing Master Wage Decisions, and for assigning Project Specific Wage Decisions follow here.

Managing Master Wage Decisions in LCP Tracker & Assigning Project Specific Wage Decisions

The correct practice for managing wage decisions in LCP Tracker is with the use of MASTER wage decisions. These are the templates that can then be copied to individual projects. Once a Master wage decision is loaded into LCP Tracker, no changes should be made to it. If a new Master wage decision needs to be added, the method would be to copy the current records from an existing master into a new master, and modify those records as needed.

MANAGING MASTER WAGE DECISIONS

1. In LCP Tracker, navigate to Set Up. Click on *Prevailing Wage Setup*.



2. To copy an existing Master Wage to use as a starting point for the new Master Wage, click on *Copy Master to Master*. This will allow you to select records to copy into the new wage decision.



https://lcpprod.lcptracker.net/Lcp/Menus/PrevailingWageSetupMenu

File Edit View Favorites Tools Help

MCDOT
MARICOPA COUNTY
TRANSPORTATION

User Portal Training Materials Support Logout

MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

Projects Certifications Violations Reports Admin eDocuments Set Up

Prevailing Wage Setup

Add/Edit Master Wage Data Construction Type

Copy Master to Master

Assign Prevailing Wage

Add/Edit Project Wage Data

https://lcpprod.lcptracker.net/Lcp/WebForms/Federal/copyfedratessource.aspx

File Edit View Favorites Tools Help

MCDOT
MARICOPA COUNTY
TRANSPORTATION

User Portal Training Materials Support Logout

MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

Projects Certifications Violations Reports Admin eDocuments Set Up

Copy Federal Wage Data

Source (From) Destination (To)

Jurisdiction: Maricopa County DOT Jurisdiction: [Dropdown]

Location: Maricopa County, AZ Location: [Dropdown]

Type: Highway Type: [Dropdown]

Wage Decision: AZ150008 MOD 0 Wage Decision: [Dropdown]

Mod: 0 Mod: [Dropdown]

Issue Date: 01/02/2015 Issue Date: [Calendar]

Publication date: 01/02/2015 Publication date: [Calendar]

Expiry date: 01/02/2025 Expiry date: [Calendar]

Craft-Classification: ☐ Select All

- ☐ CARPENTER - CARPENTER (Including Cement Form Work)
- ☐ CEMENT MASON - CEMENT MASON
- ☐ ELECTRICIAN - ELECTRICIAN
- ☐ IRONWORKER - IRONWORKER (Rebar) - Pima County
- ☐ IRONWORKER - IRONWORKER (Rebar) - Pinal County
- ☐ IRONWORKER - IRONWORKER (Rebar) - ZONE 3
- ☐ IRONWORKER - IRONWORKER (Rebar) - ZONE 1
- ☐ IRONWORKER - IRONWORKER (Rebar) - ZONE 4

Cancel Reset Copy Wages

Tip Select all records for copying, and then delete the unneeded records when modifying the new Master.

- After copying the desired records from an existing Master Wage into a new Master Wage that you create, you can edit the records in the newly created Master Wage.



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Browser address bar: <https://lcpprod.lcptracker.net/Lcp/Menus/PrevailingWageSetupMenu>

File Edit View Favorites Tools Help

MCDOT MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

User Portal Training Materials Support Logout

Projects Certifications Violations Reports Admin eDocuments Set Up

Prevailing Wage Setup

Add/Edit Master Wage Data Construction Type

Copy Master to Master

Assign Prevailing Wage

Add/Edit Project Wage Data

Tip

More than one record can be deleted at once in this screen. Delete the unneeded records, and then modify the remaining records with accurate wage information

Browser address bar: <https://lcpprod.lcptracker.net/Lcp/Set>

File Edit View Favorites Tools Help

MCDOT MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION

User Portal Training Materials Support Logout

Projects Certifications Violations Reports Admin eDocuments Set Up

Edit Master Wage Data

Jurisdiction * Maricopa County DOT Location * Maricopa County, AZ Construction Type * Highway

General Decision * AZ150008 MOD 0 Modification * 0

Delete Selected Add Classification

| General Decision | Type | Craft | Classification | Basic Rate | Fringes | Total Rate | Overtime Total | Doubletime Total | Standard Hours | Issue Date | Expire Date | |
|---|---------|--------------|--|------------|----------|------------|----------------|------------------|----------------|------------|-------------|------------------|
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | CARPENTER | CARPENTER (Including Cement Form Work) | \$24.030 | \$9.990 | \$34.020 | \$46.035 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | CEMENT MASON | CEMENT MASON | \$19.280 | \$3.990 | \$23.270 | \$32.910 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | ELECTRICIAN | ELECTRICIAN | \$22.840 | \$6.480 | \$29.320 | \$40.740 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | IRONWORKER | IRONWORKER (Rebar) - Pima County | \$23.170 | \$14.830 | \$38.000 | \$49.585 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | IRONWORKER | IRONWORKER (Rebar) - Pinal County | \$20.270 | \$8.350 | \$28.620 | \$38.755 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | IRONWORKER | IRONWORKER (Rebar) - ZONE 3 | \$31.520 | \$21.020 | \$52.540 | \$68.300 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | IRONWORKER | IRONWORKER (Rebar) - ZONE 1 | \$26.520 | \$21.020 | \$47.540 | \$60.800 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| <input type="checkbox"/> AZ150008 MOD 0 | Highway | IRONWORKER | IRONWORKER (Rebar) - ZONE 4 | \$33.020 | \$21.020 | \$54.040 | \$70.550 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |



ASSIGNING PROJECT SPECIFIC WAGE DECISIONS

1. Copying a Master Wage to a Project Specific Wage: Click on *Assign Prevailing Wage*. Select the project you want to *assign Wages TO*, and the source *Master Wage* the records will be coming *FROM*.

The screenshot shows the LCPTracker web application interface. The browser address bar displays <https://lcpprod.lcptracker.net/Lcp/Menus/PrevailingWageSetupMenu>. The page header includes the Maricopa County Department of Transportation logo and navigation links: User Portal, Training Materials, Support, and Logout. Below the header is a navigation bar with tabs: Projects, Certifications, Violations, Reports, Admin, eDocuments, and Set Up. The 'Set Up' tab is active, and the 'Prevailing Wage Setup' section is displayed. This section contains five buttons: Add/Edit Master Wage Data, Construction Type, Copy Master to Master, Assign Prevailing Wage (highlighted with a red arrow), and Add/Edit Project Wage Data.

The screenshot shows the 'Assign Prevailing Wage' form in the LCPTracker web application. The form is titled 'Assign Prevailing Wage' and has a 'Destination (To)' section with a 'Project' field containing 'TEST COMPANY - ABC CONTRACTING'. The 'Source (From)' section includes dropdown menus for 'Jurisdiction' (Maricopa County DOT), 'Location' (Maricopa County, AZ), 'Type' (Highway), 'Wage Decision' (AZ150008 MOD 0), 'Mod' (0), 'Issue date' (1/2/2015), 'Publication date' (1/2/2015), and 'Expire Date' (1/2/2025). There is a 'Craft-Classification' section with a 'Select All' checkbox and a list of craft classifications: CARPENTER - CARPENTER (Including Cement Form Work), CEMENT MASON - CEMENT MASON, ELECTRICIAN - ELECTRICIAN, IRONWORKER - IRONWORKER (Rebar) - Pima County, IRONWORKER - IRONWORKER (Rebar) - Pinal County, IRONWORKER - IRONWORKER (Rebar) - ZONE 3, IRONWORKER - IRONWORKER (Rebar) - ZONE 1, and IRONWORKER - IRONWORKER (Rebar) - ZONE 4. At the bottom of the form are 'Cancel', 'Reset', and 'Assign Wages' buttons. A blue arrow points to the 'Assign Wages' button.

Tip Select all records for copying, and then delete the unneeded records when modifying the Project Specific Wages.



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2. After the records from the Master Wage have been copied over to the Project Specific Wages, you can edit the Project Specific Wages to match the wage determination in special provisions.

The screenshot displays the LCPTracker web application interface. The top navigation bar includes links for User Portal, Training Materials, Support, and Logout. The main menu shows options like Projects, Certifications, Violations, Reports, Admin, and eDocuments. The 'Prevailing Wage Setup' section contains buttons for 'Add/Edit Master Wage Data', 'Construction Type', 'Copy Master to Master', 'Assign Prevailing Wage', and 'Add/Edit Project Wage Data'. A red arrow points to the 'Add/Edit Project Wage Data' button.

The 'Edit Project Wage Data' screen shows a dropdown for 'Project' set to 'TEST COMPANY - ABC CONTRACTING'. Below this is a table of wage data with columns for Jurisdiction, Location, General Decision, Type, Craft, Classification, Basic Rate, Fringes, Total Rate, Overtime Total, Doubletime Total, Standard Hours, Issue Date, and Expire Date. Each row has 'Copy', 'Edit', and 'Delete' buttons.

| Jurisdiction | Location | General Decision | Type | Craft | Classification | Basic Rate | Fringes | Total Rate | Overtime Total | Doubletime Total | Standard Hours | Issue Date | Expire Date | |
|---------------------|---------------------|------------------|---------|-----------|--|------------|---------|------------|----------------|------------------|----------------|------------|-------------|------------------|
| Maricopa County DOT | Maricopa County, AZ | AZ150008 MOD 0 | Heavy | LABORER | SIGN INSTALLER - CFR | \$14.540 | \$3.490 | \$18.030 | \$25.030 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ150008 MOD 0 | Highway | CARPENTER | CARPENTER (Including Cement Form Work) | \$24.030 | \$9.990 | \$34.020 | \$46.035 | \$0.000 | 8 | 01/02/2015 | 01/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | CARPENTER (Including Cement Form Work) | \$23.580 | \$8.490 | \$32.070 | \$43.860 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | UNION - Apprentice Level 1 60% | \$14.148 | \$5.080 | \$19.228 | \$26.302 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | UNION - Apprentice Level 2 65% | \$15.327 | \$5.080 | \$20.407 | \$28.071 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | UNION - Apprentice Level 3 70% | \$16.506 | \$5.080 | \$21.586 | \$29.839 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | UNION - Apprentice Level 4 75% | \$17.685 | \$5.080 | \$22.765 | \$31.608 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | UNION - Apprentice Level 5 80% | \$18.864 | \$8.490 | \$27.354 | \$36.786 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |
| Maricopa County DOT | Maricopa County, AZ | AZ100013 MOD 10 | Highway | CARPENTER | UNION - Apprentice Level 6 85% | \$20.043 | \$8.490 | \$28.533 | \$38.555 | \$0.000 | 8 | 09/02/2011 | 09/02/2025 | Copy Edit Delete |

Tip More than one record can be deleted at once in this screen. Delete the unneeded records, and then modify the remaining records with accurate Project Specific wage information, as determined by the Project Special Provisions.



Fringe Plan Review and Approval

Contractors may have a different and unique fringe benefit plan, while other contractors comply with the wage decision by paying the cash-equivalent of the fringe portion of the classification the employee is working. Some benefit plans are established through Union agreements that make up the majority of the contractor's fringe benefit plan. ADOT's Field Reports Section and MCDOT have agreed to follow the same procedure for approving fringe plans and sharing information on previously approved plans. *Ideally, a fringe plan is reviewed once per calendar year, and any time a contractor makes a change to their plan.*

Once a fringe plan is approved for a particular contractor, the summary is uploaded into the eDocuments section in LCP Tracker. This summary is applicable to that contractor for all projects they are working on, as the fringe plan approval is per company, not per project. The summary will give a breakdown of allowable fringe amounts. This information is used when checking certified payrolls. *A contractor may pay more in fringes and cash in lieu of fringes than the contract requires, but they can only take credit for the maximum amount allowed as determined by the approved fringe plan.*

MCDOT and ADOT have informally agreed to share information with regards to fringe benefit review and approvals. If unable to locate a current, approved plan, go through the following steps.

No payrolls from the contractor being reviewed should be approved until the amount of allowable credit in the fringe plan is approved.

Instructions for Fringe Plan Review and Approval

Before going through the process of reviewing a contractor's fringe benefits, first check in LCP Tracker to see if there is a current, approved plan in place uploaded in LCP Tracker. Also, check with ADOT Field Reports to see if they have an approved plan on file. All fringe benefit plans are to be uploaded into LCP Tracker. *MCDOT is required to review only the Prime Contractor's fringe benefits and the Prime Contractor is required to check the fringe benefit plans of their Subcontractors. Be aware that some type of fringe benefits may require approval from the US Department of Labor.*

1. Request the following items from the contractor:
 - A. Employee handbook or written information that is given to employees which provides a description of the company sponsored benefits employees can participate in when they go to work for the company
 - i. Medical coverage
 - ii. Dental coverage
 - iii. Vision coverage
 - iv. Life/AD&D coverage
 - v. Vacation and/or Holiday time off



- vi. Training
- vii. Pension/401k plan
- B. Detailed description of the participation levels for both the company and employees for health/welfare benefits.
- C. Current copies of health care provider's billings; listing participating employees and monthly premiums paid on their behalf along with copies of cancelled check or electronic funds transfer as proof of payment. (An invoice and payment verification for one month from the benefit plan year will suffice)
- D. IF APPLICABLE – Record of deposits for Pension / 401k contributions made on behalf of employees, account statement listing participating employees and copy of cancelled check or electronic funds transfer as proof of payment.
- E. IF APPLICABLE – Union Employer Reporting Form(s) listing all union employees, total hours worked in the month, contribution levels and copies of cancelled check(s) as proof of payment. (Provide an ERF and payment verification for one month from each union trust)
2. Once the requested information is received, review the Employee handbook carefully to determine the benefits each employee receives. Also use the health care provider's billings to verify the amounts that are paid on the employee's behalf.
3. Use a Plan Calculation Spreadsheet (Appendix F.9.1) to determine the Allowable Hourly Credit the contractor may take for each of the following fringe categories: Medical, Dental, Life Insurance / AD&D, 401k / Pension, Vacation.
4. Record the information on a Fringe Plan Summary (Appendix F.9.2) providing any notes for backup as to how the amounts were determined and upload it into LCP Tracker.
5. Use this information for the approval of payrolls for that contractor.

IV.9.3 Completing Conformance Requests Under the Davis-Bacon Act

Overview

The U.S. Department of Labor (DOL) issues wage determinations under the Davis-Bacon Act (DBA) using survey data on prevailing construction wages and benefits paid in specific areas. On occasion, the data does not contain sufficient information to issue rates for a particular classification of worker needed in the performance of the contract. Because of this, DBA provisions contain a **conformance procedure** for the purpose of establishing an enforceable wage and benefit rate for the missing classification.

Contracting Agency Role

At the preconstruction meeting, advise the contractor of their contract labor requirements and obligations.



Contractors Role

Contractors are responsible for determining the appropriate staffing necessary to perform the contract work. Contractors are also responsible for complying with the minimum wage and benefits requirements for each classification performing work on the contract. If a classification considered necessary by the contractor for performance of the work is not listed on the applicable wage determination, the contractor must initiate a request for approval of an additional classification along with the proposed wage and benefit rates for that classification.

The awarded Contractor initiates the request by preparing an **SF1444**, Request for Authorization of Additional Classification and Rate, at the time of employment of the unlisted classification. (*Reference FAR 22.406-3 and 52.222-6(b), and Title 29 CFR Part 5, Section 5.5(a)*). The contractor completes blocks 2 through 15 on the form. Request may be submitted to DOL without the form, but must contain the required information.

Employees, if present, or their designated representative **must sign block 16** noting their concurrence or disagreement with the contractor's proposed wage and benefit rate. If the employee indicates disagreement with the contractor's proposal, he must provide a statement supporting a recommendation for different rates. ("Designated representative" is generally a union. It cannot be the contractor's personnel officer or other contractor representative.)

The Contractor submits the request to the Engineer. The Engineer reviews the request for completeness and recommends signature to MCDOT. The form is forwarded to the Construction Engineer and the MCDOT's Labor Compliance Office Manager for review and signature. The MCDOT's Labor Compliance Office Manager reviews the requests and advising the Construction Engineer to sign the form with concurrence or disagreement with the contractor's proposal. If the Construction Engineer indicates disagreement with the contractor's proposal, a statement must be attached supporting a recommendation for different rates. The MCDOT's Labor Compliance Office Manager then submits the proposal with all attachments to DOL for approval. The Contractor is obligated to pay the proposed wage and benefit rates pending a response from DOL.

Contracting Officer. The Contracting Officer reviews the request for completeness and signs the form designating the contracting agency's concurrence or disagreement with regard to the contractor's proposal. If the Contracting Officer indicates disagreement with the contractor's proposal, a statement must be attached supporting a recommendation for different rates. The Contracting Officer then submits the proposal with all attachments **to DOL for approval**. The Contractor is obligated to pay the proposed wage and benefit rates pending a response from DOL.

The MCDOT's Labor Compliance Office Manager may submit completed SF1444 Requests to the Department of Labor via email. The completed form and all supporting documents is scanned



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into a 'pdf' file and attach to the email. Include the Construction Engineer's name, address, telephone, and email address.

Submit the email to: WHD-CBACONFORMANCE_INCOMING@dol.gov

Checklist for DBA Conformances:

- a. The classification must be appropriate for the contract work, and must be a classification that is utilized in that locality by the construction industry.
- b. The contractor cannot propose a new classification by combining job duties from two or more existing classifications on the wage determination, or propose a new classification that performs only part of the duties of an existing classification.
- c. The proposed classification cannot be a "trainee". Generally, a proposed classification of "helper" will not be approved. Under DBA provisions, a "helper" will not be approved by DOL unless the contractor establishes that the criteria in the regulations at 29 C.F.R. Part 5 are met.
- d. Conformance requests should not be submitted for exempt classifications (project managers, full-time supervisors, professionals such as engineers), nor for classifications other than "laborers or mechanics" employed on the site of work, as covered by DBA.
- e. The proposed rate and fringe benefits should bear a reasonable relationship to the wage rates listed on the wage determination.
- f. The **contractor must** attach a brief job description to each SF1444 request submitted for classifications that are not generally known and utilized in the construction industry in the locality. The contractor should include all pertinent documentation that supports his request for approval of an additional classification.
- g. If the contractor has further questions about a conformance process, he/she may contact the nearest Regional Office of the U. S. Department of Labor, Wage and Hour Division (see DOL's website in the WDOL.GOV [Library](#)).

Submitting request to WDOL

1. MCDOT's Labor Compliance Office Manager may submit completed SF1444 Requests to the Department of Labor via email. The completed form and all supporting documents is scanned into a 'pdf' file and attach to the email. Include the Construction Engineer's name, address, telephone, and email address.
2. Submit the email to: WHD-CBACONFORMANCE_INCOMING@dol.gov
3. Follow directions on the MCDOT WAGE CLASSIFICATION REQUEST CHECKLIST for each submittal

| X | APPROVAL STATUS | DATE |
|---|--------------------------|------|
| | SENT TO DOL | |
| | APPROVED BY DOL | |
| | REJECTED/ADJUSTED BY DOL | |



| | CHECKLIST |
|--|--|
| | Check that all boxes are filled in correctly - i.e., Box 2 has to have MCDOT info (not ADOT), Check for 1 signature if for Contractor, Check for 2 signatures if for Subcontractor. |
| | MCDOT – Labor Compliance Office Manager - Sign Form at bottom (electronic or manual) |
| | File: Scan if manual signature. File Save if electronic. File in Project File/ Certified Payroll / Wage Classification Title (date-title-Form 1444) |
| | Fill out top box of this form to be copied into Email to DOL |
| | Save this form in Wage Classification file (date-title-DOL Submittal Form) |
| | Copy Top Portion into Email Base |
| | Send Email (above top table, and attach Form 1444 - to DOL for approval To: WHD-CBACONFORMANCE INCOMING@DOL.GOV Contact for problems: Beverly Mitchell mitchell.beverly@dol.gov |
| | Enter Classification in LCPTTracker **do not change MASTER Wage Decision go to: "set up" - wage determination/add classification/project only |
| | Add Classification / Rate to Working Book Bid Schedule |
| | Notify Contractor by email that classification is entered into LCPTTracker |
| | Put packet in working tray to hold for response / final approval from DOL |
| | Notify Contractor that DOL has: ___approved or ___rejected or ___request wage change |
| | Update Wage Decision Classification Add Ons List – add updated list to Project Site Poster Board |

Resources Provided by DOL – WHD

Prevailing Wage Resource Book

- Contains a chapters on
 - Additional classifications - will provide a checklist for contractors and contracting agencies in completing the requests.
 - Compliance principles - provides basic information regarding major aspects of compliance with the Davis-Bacon labor standards and CWHSSA overtime requirements.

All Agency Memorandum 213 (AAM 213).

- Outlines the application of the reasonable relationship requirement for conformance requests. At the end of page 4 and beginning of page 5, there is language that states



that using the common laborer rate as a benchmark for all conformance requests that fall into the labor category that aren't already on the WD.

IV. 9.4 Contractor Employee Interviews

To assist with verification of payroll data, Inspectors will periodically conduct a one-on-one interview of random contractor employees. These interviews will be conducted utilizing the Record of Contractor's Employee Interview (Appendix F.9.4). The information obtained from this interview will be compared for accuracy to the information shown on the payroll. Should a discrepancy be discovered, the contractor shall be notified and corrective action may be required. If the project has more than one wage decision and a contractor employee has duties in both wage decisions, it is required that two interviews be conducted.

Every situation is unique which may require different corrective action. For example:

- 1. The employee misunderstood what rate they were paid for the work they performed – no action required.*
- 2. The contractor discovers after MCDOT's notification that they did in fact underpay an employee. First, the contractor shall immediately begin paying the employee in accordance with the wage decision for the classification the employee is working. Second, payment for all back wages shall be made separately from the regular payroll and copies of the cancelled checks are required to be returned to MCDOT for verification.*
- 3. The employee was paid appropriately, in accordance with the wage decision, but was not accurately reflected on the payroll. The payroll is corrected and returned to MCDOT for review through LCP Tracker, and a copy of the cancelled check that verifies the correct payment to the employee was made.*

As a guideline, Inspectors should attempt to interview each contractor and subcontractor employee working on the project at least once, in each capacity they are working during the construction of the project. Information obtained during this one-on-one interview between the inspector and the contractor's employee is sensitive, confidential information and shall be conducted utilizing the MCDOT Contractor's Employee Interview Form. The information that is gathered from this interview is shared with the Construction Engineer's staff only, and is NOT shared with other contractor employees or supervisors.

Checking Certified Payrolls

There are many things to be aware of when checking certified payrolls. A convenient Payroll Checklist (Appendix F.9.5) is included in the appendix.

- Contractor Employee Interviews verify dates and types of work an employee performed.
- The maximum allowable fringe amounts based on the Fringe Plan Summary.
- If a deduction with the classification "other" is shown, make sure the contractor has uploaded an Employee Authorized Deductions Form (Appendix F.9.6) that clearly states



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what the amounts being deducted are, the reason for the deduction and includes the employee's signature.

- Apprentice/Trainee information: Discussed in section 5 of this chapter: On-The-Job Training.

When checking certified payrolls, the Labor Compliance Staff will use Contractor Employee Interviews as the primary means of labor compliance verification, and randomly perform spot checks of Inspector Daily Diaries as an additional verification tool for labor compliance.

The misclassification of workers is one of the most common compliance issues, so the Inspector's recorded observations of the work being performed and the labor force on-site is useful when discrepancies are discovered with payroll(s) during the course of verifying the information from the Contractor's Employee Interviews. The comparison of Inspector Diaries, combined with the use of Contractor Employee Interviews, can help provide a more clear description of the work being performed and assist the Labor Compliance Staff with identification of possible compliance issues.

The Labor Compliance Staff is therefore encouraged to take a random sampling of Inspector's Daily Diaries to verify the labor information documented by the Inspector as a means for spot checking against the certified payrolls. Sometimes, it may be determined that the Inspector's recorded observations of the labor force on-site does not directly correlate with the certified payrolls. If differences or questions are noted, the Labor Compliance Staff should first discuss with and get clarification from the Inspector. If there are remaining discrepancies with the certified payrolls after clarification from the Inspector, the Labor Compliance Staff should follow the appropriate steps in rejecting the payroll to allow the contractor to address the discrepancy. As documentation that the spot check was performed, the Labor Compliance Staff should either attach a copy of the Inspector's Daily Diary to the payroll and place in project file or note the spot check in LCPTracker with the Inspector's Daily Diary Number and Date.

Failure to submit certified payrolls

Within the special provisions of a project, MCDOT includes the following specification whereby money is retained from the monthly progress payment (in addition to normal retention) when the contractor fails to submit certified payrolls. If by the 15th of the month, the contractor has not submitted its payrolls for all work performed during the preceding month, the Engineer will provide written notification of the discrepancies to the contractor. For each payroll document that the CONTRACTOR fails to submit within 10 days after the written notification, the COUNTY will retain \$2,500 from the progress payment for the current month. The CONTRACTOR shall submit each complete and correct payroll within 90 days of the date of written notification. If the payroll is complete and correct within the 90-day time frame, the COUNTY will release the \$2,500 on the next monthly estimate. For each payroll that is not acceptable until after the 90-day time frame, the COUNTY will only release \$2,000 of the \$2,500.00 retained. The COUNTY will retain \$500.00 as liquidated damages. Such \$500 retentions will not relieve the CONTRACTOR of its responsibility to provide each required payroll, complete and correct, as



specified above. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

A sample notification letter is provided in Appendix F. (Appendix F.9.7)

VI.9.5 Authorized Signatures

The Prime Contractor is required to submit an Authorized Signature Form at the Preconstruction Conference. **If the person signing items such as a Subcontract Request Form is using an electronic font signature on the documents, ensure a matching electronic font signature is on the Authorized Signature Form.**

The person electronically submitting the certified payrolls in LCP Tracker needs to be included on the Authorized Signature Form. This person needs to have the authority to sign for payrolls (identified on the Authorized Signature Form as Document #4 Payrolls). *It is also a good idea to have the contractor submit a letter stating that authority for specific forms (Conformance Request for example) has been delegated to the individual who will be signing and submitting them, with the letter signed by a person on the Authorized Signature Form with that area of authority.*

VI.9.6 Subcontract Agreements

Subletting of a contract shall comply with Section 108.2. In addition to the referenced section requirements, subcontracts for all Federal Aid projects will follow these guidelines:

An approved subcontract agreement is required before a subcontractor can begin work on site. MCDOT requires the full subcontract package to be submitted before approving any subcontractor. Non-DBE subcontractors must submit the following items. DBE subcontracts must also include the Contractor Compliance Agreement Assurances Form as discussed in the DBE section.

- Subcontractor Request Form (SRF) (Appendix F.9.8)
- Executed Subcontract
- EEO Statement/Clause
- E-Verify language
- Record Retention Language
- FHWA-1273, all pages initialed and dated
- Attachments referenced on SRF #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14
- MCDOT Title VI Assurances Appendix A and Appendix E included in every subcontract
 - Appendix and Appendix E posters can be found on MCDOT's website MCDOT Title VI Nondiscrimination Program

A Master List of subcontractors and suppliers should be maintained that will assist with tracking necessary information. The list should include the following: Approval date, lower tier status,



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start date and end date to confirm payroll data, DBE status (including whether or not they are included in the DBE goal per bid documents), and subcontract amount. This document can be used to help track the percentage of work being subcontracted as well.

Sample Master List of Subcontractors

| | | | | | |
|------------------|-----------------|----------------------|------------|-----------------|--|
| Project: | TT000X | NTP Date | | | |
| Contractor: | Contractor | Prime Start Work: | 1/1/2019 | Prime End Work: | |
| Contract Amount: | \$43,045,077.77 | Contract Time Began: | 12/31/2018 | | |
| Max 60%: | \$25,827,046.66 | | | | |

| Date Approved | Lower Tier To | Subcontractor | Start Date | End Date | Payrolls? | DBE | HVY | On DBE Affidavit? | Subcontract Amount | % of Contract | Accum Amt | Accum % |
|---------------|---------------|--|------------|-----------|-----------|-----|-----|-------------------|--------------------|---------------|--------------|---------|
| 7/9/2019 | Stinger | 360 Industrial Services | | | | | | | \$ 3,000.00 | 0.01% | \$ - | 0.01% |
| 11/30/19 | | 3D Painting & Sandblasting, Inc | | | | | | | \$ 49,125.00 | 0.11% | \$ 52,125.00 | 0.12% |
| 1/31/2019 | | A-Core Concrete Cutting | 2/11/2019 | | | | | | \$ 6,476.05 | 0.02% | \$ 58,601.05 | 0.14% |
| 7/22/2019 | McNeil | A-Core Concrete Cutting | 7/23/2019 | | | | | | \$ 143,903.06 | 0.33% | \$ 58,601.05 | 0.47% |
| 12/4/2019 | | Ammex Rebar Placers, Inc | 2/7/2019 | | | | x | Yes, Cuf COMPL | \$ 1,849,167.46 | 4.30% | \$ 58,601.05 | 4.77% |
| 12/11/2018 | | Argus Const. Svs. (SWPPP) | 1/7/2019 | | No | | | | \$ 2,250.00 | 0.01% | \$ 58,601.05 | 4.77% |
| 6/4/2019 | Stodghill | Askem's Trucking | 5/21/2019 | 5/30/2019 | | | | | \$ 5,000.00 | 0.01% | \$ 58,601.05 | 4.78% |
| 12/14/2018 | | ATC Group | NPR | | | | x | | \$ 169,745.00 | 0.39% | \$ 58,601.05 | 5.18% |
| 3/14/2019 | Rummel | Auza & Auza Contr dba Auza Contr Inc | 3/15/2019 | | | x | | no | \$ 1,910.00 | 0.00% | \$ 58,601.05 | 5.18% |
| 6/18/2019 | Jet Svs | Barry Bubba Lillis Trucking | 4/15/2019 | | | | | | \$ 3,400.00 | 0.01% | \$ 58,601.05 | 5.19% |
| 12/18/2018 | | Bobs Barricade | 12/26/2018 | | | | | | \$ 577,402.19 | 1.34% | \$ 58,601.05 | 6.53% |
| 6/18/2019 | Jet Svs | Dave Ramsey Trucking | 4/15/2019 | | | | | | \$ 3,400.00 | 0.01% | \$ 58,601.05 | 6.54% |
| 1/31/2019 | Roadway Elec | DD Wheeler, LLC dba Dave's Drilling | 4/29/2019 | | | | | | \$ 1,950.00 | 0.00% | \$ 58,601.05 | 6.54% |
| 3/7/2019 | | European Pavers Southwest Inc.. | | | | | | | \$ 38,750.40 | 0.09% | \$ 58,601.05 | 6.63% |
| 6/4/2019 | Stodghill | Helton Excavating | 6/5/2019 | | | | x | | \$ 10,000.00 | 0.02% | \$ 58,601.05 | 6.66% |
| 1/16/2019 | Case | Hogue & Associates, Inc (testing) | NPR | | No | X | | no | \$ 57,079.60 | 0.13% | \$ 58,601.05 | 6.79% |
| 12/26/2018 | | Hunter GuardRail & Fence | 1/18/2019 | | | | | | \$ 463,591.50 | 1.08% | \$ 58,601.05 | 7.87% |
| 5/28/2019 | Mountainside | Jet Services | 4/15/2019 | | | | | | \$ 25,000.00 | 0.06% | \$ 58,601.05 | 7.92% |
| 6/12/2019 | Stinger | Marco Crane & Rigging Company | | | | | | | \$ 64,000.00 | 0.15% | \$ 58,601.05 | 8.07% |
| 4/10/2019 | | McNeil Brothers Inc. | 5/23/2019 | | | | | | \$ 5,315,648.53 | 12.35% | \$ 58,601.05 | 20.42% |
| 12/11/2018 | | Metro Engineering & Survey | 12/17/2018 | | | x | x | No, Cuf Complete | \$ 400,702.00 | 0.93% | \$ 58,601.05 | 21.35% |
| 4/10/2019 | Rummel | Mountainside Materials Inc. | 4/15/2019 | | | | | | \$ 43,680.00 | 0.10% | \$ 58,601.05 | 21.45% |
| 7/11/2019 | Stodghill | Mussie G Trucking | | | | | | | \$ 7,200.00 | 0.02% | \$ 58,601.05 | 21.47% |
| 12/17/2018 | | Paveco, Inc. | 1/31/2019 | | | | | | \$ 2,030,417.50 | 4.72% | \$ 58,601.05 | 26.19% |
| 1/31/2019 | | Pavement Marking Inc. | 2/1/2019 | | | | | | \$ 142,171.37 | 0.33% | \$ 58,601.05 | 26.52% |
| 6/18/2019 | Jet Svs | Pavittar Singh dba Preet Trucking | 4/15/2019 | | | | | | \$ 3,400.00 | 0.01% | \$ 58,601.05 | 26.53% |
| 6/18/2019 | Jet Svs | PKG Trucking | 4/15/2019 | | | | | | \$ 3,400.00 | 0.01% | \$ 58,601.05 | 26.53% |
| 12/4/2018 | | Preach Inc. | 1/31/2019 | | | | x | | \$ 72,021.00 | 0.17% | \$ 58,601.05 | 26.70% |
| 12/15/2018 | | Professional Police Services | NPR | | No | | | | \$ 35,000.00 | 0.08% | \$ 58,601.05 | 26.78% |
| 12/18/2018 | | Roadway Electric LLC | 4/15/2019 | | | | | | \$ 2,244,287.50 | 5.21% | \$ 58,601.05 | 32.00% |
| 1/9/2019 | | Rummel Construction | 1/15/2019 | | | | | | \$ 3,565,019.30 | 8.28% | \$ 58,601.05 | 40.28% |
| 2.6.19 | | Steel Girder dba Stinger Bridge & Iron | | | | | | | \$ 2,269,128.75 | 5.27% | \$ 58,601.05 | 45.55% |
| 12.4.18 | | Stodghill Trucking Inc. | 3/11/2019 | | | x | | Yes, CUF COMPL | \$ 49,460.00 | 0.11% | \$ 58,601.05 | 45.67% |
| 12.18.18 | | Total Maintenance Engineering, LLC | 1/7/2019 | | | x | | Yes, Cuf Compl | \$ 1,054,466.62 | 2.45% | \$ 58,601.05 | 48.12% |
| 1.17.19 | | WSP Inc. | 2/5/2019 | | | | x | no | \$ 269,101.60 | 0.63% | \$ 58,601.05 | 48.74% |
| 12.14.18 | | Zikov Engineering Inc | NPR | | No | | | | \$ 11,900.00 | 0.03% | \$ 58,601.05 | 48.77% |

The following process has been established by MCDOT for approval of subcontractors.

Instructions for Approving a Subcontract

All subcontractors must be approved before they can begin working on a project. If the subcontractor begins work before approval is obtained, the work should be stopped by the inspector on site. In these rare cases, a letter is required from the Prime Contractor explaining (1) why the subcontractor was working on the project without an approved subcontract and (2) how this will be prevented from happening again in the future. The Construction Engineer needs to concur, and may write a cover memo for the letter.

The complete subcontract package includes the following items for all subcontractors:

- Subcontractor Request Form (SRF) – (detailed instructions below) Subcontract, *including Record retention language, E-Verify language, EEO Statement/Clause, 'Schedule A' or*



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*document showing items of work, unit prices and extended prices – **this must match the information on the SRF***

- SRF Item #3: Standard Federal EEO, Executive Order 11246 Revised 04-15-81 (Federal Aid and Non FA projects)
- SRF Item #4: Affirmative Action to Insure Equal Employment Opportunity (Executive Order 11246), April 15, 1981 (Fed Aid and NFA)
- SRF Item #5: FHWA 1273-(Rev.5-12) (Federal Aid projects only) – *each page initialed and dated*
- SRF Item #6: EEO Compliance Reports, August 24, 2016 (Federal Aid Projects only)
- SRF Item #7: Certification of Nonsegregated Facilities, September 29, 1975 (Federal Aid Projects Only)
- SRF Item #8: EPRISE Specifications (07/01/2017) with DBE Goal or EPRISE Specifications (09/19/16) without DBE Goal per Special Provisions or DBE Requirements Summary (7/1/16)
- SRF Item #9: MCDOT Title VI Assurances, Appendix A through Appendix E
- SRF Item #10: Exhibit 3A - Prompt Pay and Payment Reporting Provisions (Rev 9/20/16)
- SRF Item #11: Exhibit 19 - Payroll Prompt Payment and Reporting
- SRF Item #12: Exhibit 31 - Section 106 of ADOT 2008 Standard Specifications - CONTROL OF MATERIALS with Cargo Preference Act
- SRF Item #13: Exhibit 32 - Section 109 of Maricopa Association of Governments - Measurements and Payments
- SRF Item #14: Project Specific Wage Determination Decision (Federal Aid Projects only)(As per special provisions for above referenced project)

The following **ADDITIONAL ITEMS MUST BE INCLUDED FOR DBE SUBCONTRACTORS:**

- DBE Contractor Compliance Checklist – *initialed and dated by DBE Subcontractor*
- If the DBE Subcontractor is included in the DBE Affidavit, verify the subcontract amount matches the affidavit amount.

SRF Instructions and Verification:

- 1. Begin with a new, full size updated form for the project. All fields must be completed.**
- 2. SRF must be completely legible.**
- 3. The contractor(s) names must include full legal trade name including “LLC”, “Co.”, etc.**
- 4. Must include all required contact information**



5. Do Not Use Social Security Number in place of EIN number.
6. DBE Status: If Yes is selected, the additional requirements noted above must be followed.

Once all information is verified as correct, continue with the following steps:

7. Verify the ROC license is current, and accurate for type of work being performed at www.azroc.gov.
8. Verify the contractor is in good standing at www.sam.gov.
9. If not registered with the ROC, verify the business is in good standing with the Arizona Corporation Commission at <http://ecorp.azcc.gov/Search>.
10. Ensure the pay items and dollar amounts listed on the SRF match the items and amounts listed in the subcontract.
11. Ensure all the required attachments are submitted in the subcontract package.
12. Email SRF and Subcontractor with recommendation for approval to the MCDOT Construction Engineer and MCDOT Office Manager
13. The MCDOT Office Manager will review and have the Construction Engineer sign the SRF
14. The MCDOT Office Manager will email the signed SRF to the Consultant.

VI.9.7 Certified Final Payment to DBE

After all subcontractors have completed work, the prime contractor is responsible for submitting the Certification of Final Disadvantaged Business Enterprise (DBE) Payments as discussed in section 4 of this chapter, Disadvantaged Business Enterprise Program.

VI.9.8 Required Annual Reporting

There are several reports that can be generated from the payrolls that are entered by contractors and subcontractors. For example, the Federal special provisions require Monthly Highway Project Reports be submitted monthly by Primes and Subs for EEO compliance. LCP Tracker addresses this automatically within the Workforce Reports, EEO Weekly Report. Once a Prime or Subcontractor enters their payroll data into LCP Tracker, this report can be generated at any time from within LCP Tracker. In addition, the Federal provisions also require an annual report (Form PR-1391) be submitted every July for every Prime or Subcontractor that is currently working on the project. This report can also be generated in LCP Tracker. A hard copy of this report is to be provided to MCDOT for each project required to report for the annual reporting period.

VI.9.9 MCDOT Monitoring for Federally Funded Projects

MCDOT will conduct periodic site inspections of the work to ensure contractor and subcontractor labor requirements as listed in “Contractor Labor Responsibilities,” above. Ensure that the contract prevailing



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wage rates are posted on the work site in an area accessible to all contractor and subcontractor employees. The names of truck owner-operators are to appear on the contractor's weekly payroll under the heading, "Truck Owner-Operator." No other information is required. When no work is performed, obtain from the contractor a statement of compliance with the statement "No work done this week." When no work is performed for long periods of time, the statement "No work until further notice" should be shown, and weekly statements are not required.



IV.10: MEETINGS AND REPORTS

The Projects Partnering Workshop and follow-ups, Preconstruction Meetings, Weekly Meetings, Weekly Project Reports, and Pre-Activity Meetings, shall comply with Section 108 – Prosecution and Progress.

IV.10.1 Pre-Construction Office Meeting

An Office Staff pre-construction meeting is held to discuss with the contractor the federal office compliance requirements with the contractor and consultant office staff to discuss all federal requirements and updated information MCDOT deems necessary for the specific project and contract administration. The following items shall be discussed:

- General federal requirements
- Davis Bacon Act and payment of prevailing wage
 - Prevailing Wage decisions for the project
 - LCP Tracker
 - Weekly Payrolls
 - Fringe Benefits
 - Payroll Deductions
- Adding Labor Classifications (Conformance Requests)
- Contractor employee interviews
- Subcontractors and SRF's
- DBE/CUF requirements
- Prompt Pay & Payment Reporting
- Bulletin board and required postings
- Contractor's submittals
- Buy America requirements

IV.10.2 Pre-Construction Meeting

In addition to the requirements of Section 108, a "Federal Requirements" section shall also be included in the pre-construction meeting agenda for federal-aid projects. The Federal Requirements section of the pre-construction meeting should include the following items:

- General federal requirements
- Davis Bacon Act and payment of prevailing wage
- Submittal of DBE SRF's
- Employee interviews
- Bulletin board and required postings
- Contractor's submittals
- Railroad or utility adjustments
- Public relations and interests of abutting property owners
- Contractor's work plan and schedule of operations



- Specific contract requirements,
 - OJT requirements,
 - DBE goal and tracking,
 - Title VI requirements,
 - EEO requirements
- Buy America contract provisions and compliance
- Environmental Requirements
- Temporary Construction Easements (TCE) and Right of Way (ROW) available for use by the contractor
- Time limits and performance of operations, including material delivery considerations
- Construction time and cost control
- Emergency response to incidents
- Escalation process
- Authorized signature form

MCDOT must be fully acquainted with the contractor's plan of operations, planned progress schedule, shop drawings, and other submittals. Before construction begins, MCDOT must have a traffic control plan, contractor's safety plan, and SWPPP, if applicable.

All of the stakeholders and agencies representatives including ADOT, FHWA, and IGA Partners which have jurisdiction where the work will be performed should be invited to the Pre-Construction Conference. Documentation of the meeting invites needs to be included as part of the Pre-Construction files.

The Construction Engineer will provide a copy of the Pre-construction Meeting minutes to the attendees, the ADOT PM and FHWA representatives.

An example of a Federal Aid Project Partnering and Pre-construction Conference Agenda is in Appendix F. (Appendix F.10.1)

IV.10.3 Weekly Meetings

In addition to the requirements of the Section 108, for federal aid projects the following shall also be included in the weekly meeting agenda;

- Payroll status
- Prompt Payment and Payment Reporting
- DBE reporting status, compare affidavits to progress payments (will goals be met)
- Subcontract SRFs
- Material Testing Status
- Buy America Materials Certifications
- Coordination with IGA stakeholders and other agencies



Payroll Status

The contractor and subcontractors are responsible for submitting weekly certified payrolls for approval, using the LCP Tracker software. Some projects, as part of the Special Provisions require that as part of the certified payroll review MCDOT will send the contractor a warning letter for outstanding payrolls on the 15th of the month and a retention letter for outstanding payrolls on the 25th of the month. If after the warning letter payrolls remain outstanding, this item shall be discussed during the weekly meeting and documented as part of the weekly meeting minutes.

Prompt Payment and Payment Reporting

The contractor is responsible for making prompt payments to subcontractors within 7 calendar days of receipt of payment. If payments are not made within 7 calendar days \$1,000 liquidated damages per audit period will be held and after 90 days consecutive days of non-reporting the liquidated damages increase to \$2,000 per subsequent month until payments are reported. An Example Warning letter is in [Appendix F.10.4](#).

DBE Reporting Status

As referenced in Section IV.4, the contractor is responsible for reporting payments to their subcontractors into ADOT's LPA DBE Reporting System program within 7 calendar days, once payment from MCDOT is received, and the sub-contractors are responsible for logging into the system and confirming the payment. The Construction Engineer shall provide the contractor a weekly update, and this item shall be discussed during the weekly meetings and documented as part of the weekly meeting minutes.

Buy America Materials Certification

Once the contractor begins working on aspects of the job that require materials that are covered under the "Buy America" requirements, the Construction Engineer shall provide a copy of any outstanding material certifications that are not in compliance and this item shall be discussed during the weekly meetings and documented as part of the weekly meeting minutes.

Coordination with IGA stakeholders and other agencies

A section shall be dedicated during the weekly meeting to allow IGA stakeholders and other agencies to discuss any issue related to the project. Key issues that may affect IGA stakeholders and other agencies may include: roadway closures or restrictions and encroachment into their Right of Way. These issues shall be documented as part of the weekly meeting minutes.

If required by the environmental clearance on the project, the IGA stakeholders shall identify how the information regarding the closures and restrictions are being distributed to their constituents.

All of the stakeholders and agencies representatives as well as the ADOT Project Manager and the FHWA point of contact shall be part of the weekly meeting minutes distribution list.

An example of a Federal Aid Weekly Meeting Agenda is in Appendix F. ([Appendix F.10.2](#))



IV.11: CHANGE ORDERS (SUPPLEMENTAL AGREEMENTS)

IV.11.1: Change Orders (Supplemental Agreements) for Contract Modifications of Construction Contracts

Change Orders (Supplemental Agreements) for Construction Contracts

Contractor Change Orders shall comply with the Change Orders Section of this manual. For Federal Aid Projects the Change Orders shall require the following additional requirements:

- Change Orders Limits and Approvals
- Change Orders Affecting DBE Work

Change Order Limits and Approvals

In accordance with ADOT's LPA Manual (Revised November 2017) and the Change Order Approval Process for Local Public Agency Projects (dated December 12, 2017) any Change Order, whether minor or major, should be communicated with the ADOT Project Manager through a notification email.

Major Change Order as defined by ADOT:

- Alters the scope of the work. (Deviation from Project Assessment (PA) or Design Concept Report (DCR)).
- Work is outside the limits of the environmental clearance and outside the project limits (need new R/W).
- Modifies any major item of work (as defined in Section 101.02 and 104.02 of ADOT's Standard Specifications for Road and Bridge Construction). Is increased by more than 125% or decreased below 75% of the original quantity.
- Changes the total contract value by 5% of the original contract.

Major Change Order as defined by FHWA:

- On NHS Projects. (FHWA approves major CO; on non-NHS projects the CA notifies ADOT of major CO).
- Major changes of scope. (Deviation from Project Assessment (PA) or Design Concept Report (DCR)).
- Work outside the project limits or outside environmental clearance limits
- An increase of over \$1 million to the project.
- An increase of 20% or more to the project.

The below table from the ADOT Change Order Approval Process for LPA Projects (dated December 12, 2017) outlines the approval process and authority limit for the Construction Engineer, ADOT District Engineer (DE), and FHWA. FHWA will review and approve significant major change orders on Projects of Division Interested (PoDI) for eligibility of reimbursement. If the project is not a PoDI, then only ADOT notification is required. For change orders requiring ADOT approval, pre-approved by the ADOT DE must be received before work can begin.



| Document Type | Change of... | Used when... | Approval | | |
|-----------------------|-------------------------|---|----------|-----------|------|
| | | | CA | ADOT D.E. | FHWA |
| Change Orders: | Work (Cost) | Change is minor and (equal to or less than \$75,000 or 10% of contract amount, whichever is lesser). | Yes | N/A | N/A |
| | Work (Cost) and / or | Contract unit prices or new agreed upon prices are used. (Greater than \$75,000 or 10% of the contract amount, whichever is greater). | Yes | Notify | *Yes |
| | | | | | No |
| | Time Extension | Cumulatively time extensions of 20 working days (or 30 calendar days) is added to the contract. | Yes | Notify | *Yes |
| | | | | | No |
| | Plans or Specifications | Major plan revisions or specifications changes. | Yes | Concur | N/A |
| Force Account: | Work (Cost) | An agreement can not be reached on cost. (equal to or less than \$75,000 or 10% of contract amount, whichever is lesser). | Yes | N/A | N/A |
| | | An agreement can not be reached on cost. (Greater than \$75,000 or 10% of contract amount, whichever is greater). | Yes | Notify | N/A |

* FHWA will review and approve significant major change orders on Projects of Division Interest (PoDI) for eligibility of reimbursement. If the project is not a PoDI, then only ADOT notification is required.

Change orders with back up documentations (engineer cost analysis, contractor cost estimate, plans & special provisions changes (if any) and approval by the CA's designated engineer) shall be sent to the ADOT District Engineer or his/her designee for prior concurrence. The District Engineer will review and concur/notify within TWO business days by email. Once the completed change order is finalized, a copy of the finalized change order shall be sent to the ADOT PM and ADOT District for their records by the CA agency.



FHWA requires 10 business days to give prior approval to any change order if their approval is warranted as per the table above. The ADOT District Engineer or designee will forward the change order with its supporting documents to FHWA, by email, after the two business days allotted for ADOT review and concurrence.

When a time extension change order is compensatory, then the compensatory costs for contractor's field and office overhead needs to be concurred by the ADOT State Engineer for the Construction & Material Group.

Change Orders affecting DBE work

ADOT's BECO office is to be notified of any change order that negatively affects DBE work as stated in the original DBE Intended Participation affidavit submitted by the contractor after the bid opening, and prior to award. If during the construction of the project a need arises to delete work through a change order of a DBE subcontractor, the contractor must request this change in writing to the Construction Engineer. The contractor must provide proof that they did their due diligence to try to accommodate the DBE subcontractor and deletion of this work was the last resort. This information needs to be submitted to ADOT's BECO office for approval before the work can be deleted and the contractor can proceed.

IV.11.2: Change Orders for Contract Modifications of Professional Services Contracts

Change Orders/Contract Modifications affecting DBE work

Construction Administration Consultant change orders or contract modifications that affect a DBE sub-consultant should be treated similar to DBE subcontractor. ADOT BECO must pre-approve any change order or contract modification that affects DBE sub-consultants that were part of the original DBE affidavit submitted by the contract administration firm. The prime firm must submit a request to MCDOT to justify why DBE sub-consultant work must be deleted. This information is then submitted to ADOT's BECO office for concurrence.



IV.12: INSPECTOR'S FIELD DOCUMENTATION

Inspection Daily Diaries shall comply with Sections 105.9 – Duties of Inspector and 105.10 – Inspection of Work which is an adequate source documentation to support project payments. Inspection Diaries for Federal Aid Projects shall require the following in addition to the requirements of the sections noted above:

- Start Date and Time for Subcontractors
- Maintenance and Protection of Traffic Reports and Plans, along with time(s) of day for field review of TC in place
- Flagger Certifications
- Contractor Employee Interviews
- Hazardous Materials
- Receipt of Salvage Materials

Start Date and Time for Subcontractors

One of the primary duties of an inspector is to verify that any subcontractor performing work on the project is approved and is knowledgeable of Federal Regulations. The inspector shall verify that the subcontractor has been approved to work on the project by contacting the Construction Engineer. As part of their daily documentation, the inspector is responsible to note the date and time the subcontractor started performing work on the project. This will give the Construction Engineer notification for when payrolls are expected to begin for that particular subcontractor.

A subcontractor log is kept that documents the subcontractor approval date, start date and last day on the project.

An example of subcontractor log is in Appendix F. **(Appendix F.12.1)**

Maintenance and Protection of Traffic Reports and Plans

Another of the inspector's primary duties is to verify that the traffic control was setup as per the approved traffic control plan. As part of their daily documentation, the approved traffic control plan and associated traffic control plan number needs to be referenced in the inspector's diary. If the contractor sets up traffic control that deviates from the approved plan, the approved plan needs to be revised and included as part of the inspector's daily documentation.

Flagger Certifications

When the traffic control plan requires that a flagger be present to assist with the traffic control, the inspector will be required to obtain a flagger certification for each flagger that is working on the project. This certification needs to be noted on the inspector's diary and a copy of the certification needs to be given to the Construction Engineer to file with the project files.



Sample Flagger Certification





Contractor Employee Interviews

As discussed in Section 9 of this chapter, Certified Payrolls, inspectors will periodically conduct a one-on-one interview of random contractor employees to assist with verification of payroll data. These interviews will be conducted utilizing the Record of Contractor's Employee Interview Form. The information obtained from this interview will be compared for accuracy to the information shown on the payroll. Should a discrepancy be discovered, the contractor shall be notified and corrective action may be required.

Hazardous Materials

When material is encountered in the project that is deemed hazardous as stated in Section 107.5 - Safety, Health and Sanitation Provisions – Hazardous Materials, the inspector needs to note as part of their daily documentation, the type of material, where it was encountered and the actions taken by the Contractor or Agency, how it was remediated and where it was disposed. The inspector must obtain a copy of the remediation reports and disposal location, and a copy needs to be given to the Construction Engineer to file with the project files. A Remediation Plan will likely need to be submitted to, and approved by MCDOT Environmental and County Risk Management prior to the actual work.

Receipt of Salvage Materials

When the project plans or the special provisions require material to be salvaged, these should be brought up to the attention of the contractor. Arrangements should be made with the recipient of the salvaged materials to identify the exact location of where the salvage materials will be delivered to, and to discuss any special requirements for unloading and storage. The inspector needs to note as part of their daily documentation the type and quantity of material, and when it was delivered, and who received it. A Receipt for Salvaged Materials should be completed by the Contractor, the Inspector, and the receiving party acknowledging the amount of materials delivered and that they were provided in a satisfactory condition. A copy of this receipt needs to be given to the Construction Engineer to file with the project files. (Example Appendix F.12.1)



IV.13: MONTHLY PROGRESS ESTIMATE

Monthly progress estimates shall comply with Section 109.7 – Payment for Bond Issue and Budget Projects. Monthly estimates for Federal Aid Projects shall require the following, in addition to the requirements of the section above:

- Small Business Enterprise (SBE) Form (for all MCDOT projects not just federal)
- LPA DBE Reporting System

Small Business Enterprise Form

As part of the monthly estimate, the contractor shall submit a MCDOT Small Business Enterprise Program Participation Report Form (SBE) (Appendix F.13.1). This form documents the SBE's used on the project and how much they were paid during the month.

LPA DBE Reporting System

As discussed in Section IV.4, each month after MCDOT issues payment to the Prime contractor, the Construction Engineer must then login to the LPA DBE Reporting System and enter the amount paid to the Prime contractor. Following which, the Prime must then login to the LPA DBE Reporting System and enter the amount paid to each subcontractor from that month's payment by MCDOT. Once complete, each subcontractor must login to the system and verify the date and amount they were paid by the Prime.

Payment made on each schedule item, such as OJT hours, must be thoroughly documented and monitored.



IV.14: MATERIALS

ADOT Materials Quality Assurance

ADOT's objective in requiring that the Local Public Agency (LPA) provide material quality assurance is to ensure that the materials required on the project are placed and used while adhering to the federal requirements. ADOT materials quality assurance requirements and processes for LPA projects are laid out in Appendix A of the ADOT Materials Quality Assurance Program (Appendix F.14.1).

The LPA Quality Assurance Process is composed of the following main components:

- Pre-Construction Approval by ADOT of the LPA Materials Sampling and Testing Plan
- Qualification of Testing Personnel
- Qualification of Laboratories
- Acceptance Sampling and Testing
- Independent Assurance Sampling and Testing
- Certificates of Compliance and Certificates of Analysis
- Buy America Requirements for Steel and Iron Products
- Exception Reports
- Final Certification of Materials

Pre-Construction Approval by ADOT of the LPA Materials Sampling and Testing Plan and Certification Log

During the projects final design phase, the MCDOT Materials Engineer with assistance by the Construction Engineer needs to determine and prepare a materials sampling and testing plan and certification log to submit to ADOT for approval. The materials and sampling testing plan is created using the contract's bid items and MCDOT's Sampling and Testing Guide - Federal (Appendix F.14.2). The Certification Log is created using the contract bid items, the Project Special Provisions, and standard specifications.

The materials checklist and certification log is prepared during the final design phase and must be submitted to ADOT Materials Group and approved as part of the obligation package to ADOT. The materials checklist shall include the number of samples that will be required by the acceptance lab and the independent assurance lab. The material certification log shall specify if a certificate of compliance and/or certificate of analysis is required for each bid item.



Sample Materials Sample Checklist

MATERIALS GUIDE SCHEDULE REPORT

Project Name
TT0XXX (STP-MMA-0)(XXX)F

Section: 1 - Project-Wide

| Item | | | | | | | Plan Qty | Actual Qty | % Complete |
|---|---------------------|---------|----------------------|----------------|----|----|-----------------|--------------|------------|
| 205.01150 - Roadway Excavation | | | | | | | 197460 CY | 121619.73 CY | 62 |
| | | | | Tests Required | | | Tests Completed | | |
| Test Name | Method | Spec | Acceptance Frequency | Acceptance | IA | QC | Acceptance | IA | QC |
| Material Code: EM | | | | | | | | | |
| Maximum Density | AASHTO T99 Method A | | 1 per 1 SOIL | 4 | 1 | | 5 | 3 | |
| Percent Compaction | AASHTO T310 | 95 min | 1 per 500 LF | 58 | 6 | | 71 | 3 | |
| Percent Moisture | AASHTO T310 | | 1 per 500 LF | 58 | 6 | | 71 | 3 | |
| Plasticity Index | AASHTO T-89/T-90 | | 1 per 1 SOIL | 4 | 1 | | 5 | 3 | |
| Sieve Analysis | AASHTO T-27 | | 1 per 1 SOIL | 4 | 1 | | 5 | 3 | |
| Material Code: NG | | | | | | | | | |
| Percent Compaction | | 95 min | | 0 | 0 | | 3 | | |
| Material Code: SG | | | | | | | | | |
| Percent Compaction | ARIZ 235 | 95 min | 1 per 500 LF | 29 | 3 | | 28 | 3 | |
| Plasticity Index | AASHTO T89/T90 | | 1 per 1 SOIL | 1 | 1 | | 2 | 1 | |
| Sieve Analysis | ARIZ 201 | | 1 per 1 SOIL | 1 | 1 | | 2 | 1 | |
| Subgrade Acceptance Factor | | | 1 per 1 SOIL | 1 | 1 | | | | |
| Notes: | | | | | | | | | |
| Item | | | | | | | Plan Qty | Actual Qty | % Complete |
| 207.01000 - Grading Roadway for Temporary AC Pavement Detours | | | | | | | 13014 SY | 8149.38 SY | 63 |
| | | | | Tests Required | | | Tests Completed | | |
| Test Name | Method | Spec | Acceptance Frequency | Acceptance | IA | QC | Acceptance | IA | QC |
| Material Code: AB2 | | | | | | | | | |
| Maximum Density | ARIZ 225a | | 1 per 1 SOURCE | 1 | 0 | | 2 | | |
| Percent Compaction | ARIZ 235 | 100 min | 1 per 1000 LF | 3 | 0 | | 2 | | |
| Plasticity Index | AASHTO T89/T90 | 0 to 3 | 1 per 2000 TON | 1 | 0 | | 2 | | |
| Sieve Analysis | ARIZ 201 | | 1 per 2000 TON | 1 | 0 | | 2 | | |
| Material Code: EM | | | | | | | | | |
| Maximum Density | AASHTO T99 Method A | | 1 per 1 SOIL | 1 | 0 | | 3 | | |
| Percent Compaction | AASHTO T310 | 95 min | 1 per 500 LF | 5 | 0 | | | | |
| Percent Moisture | AASHTO T310 | | 1 per 500 LF | 5 | 0 | | | | |
| Plasticity Index | AASHTO T-89/T-90 | | 1 per 1 SOIL | 1 | 0 | | 3 | | |

Qualification of Sampling and Testing Personnel

Inspectors and personnel used in sampling and testing materials on the project must have the proper certifications for the type of materials they are sampling (e.g., ACI, ATTI) as well as the requirements stated in Sections 105.9 Duties of Inspector and 105.10 Inspection of Work. See Figure A1 of the ADOT Materials Quality Assurance Program Appendix A for the minimum requirements for the sampling and testing technicians.

Qualification of Laboratories

All laboratories that perform construction materials testing on LPA construction projects must be AASHTO Accreditation Program (AAP) accredited in the testing procedures performed. In addition, the contractual relationship between the acceptance laboratory, the independent assurance laboratory and sampling/testing personnel must be clearly defined.

Acceptance Sampling and Testing

It is the responsibility of the Construction Engineer to follow the approved Sampling and Testing Guide throughout the duration of the project. If material quantities increase or



decrease throughout the duration of the project, the Construction Engineer should continue to test the material at its required frequencies. It is the Construction Engineer's responsibility to coordinate with the assigned lab to perform the independent assurance sampling and testing.

Independent Assurance Sampling and Testing

The MCDOT designated quality assurance lab can perform acceptance sampling and testing as well as the independent assurance, however, if the same lab is performing both roles, the same individual shall not perform both tests. If the test results do not compare favorably, cooperative efforts to investigate and identify the cause of the discrepancy shall commence immediately and shall be documented.

Certificates of Compliance and Certificates of Analysis

Manufactured products that are accepted through a Certificate of Compliance or Certificate of Analysis as stated in Section 106.1 – Source of Materials and Quality shall include:

- Project Name
- MCDOT Project Number
- Federal Project Number
- ADOT TRACS Number (if Applicable)
- The current name, address, and phone number of the manufacturer or supplier of the material.
- A description of the material supplied.
- Quantity of material represented by the certificate.
- Means of material identification, such as label, lot number, or marking.
- Buy America Statement.
- A statement that the material complies in all respects with the requirements of the cited specifications.
- The name, title, signature, date of signature and a statement that an individual has the legal authority to bind the manufacturer or the supplier of the material.

Buy America Requirements on Materials Certifications for Steel and Iron Products

Steel and iron materials and products used shall comply with the current "Buy America" requirements of 23 CFR 635.410.

- All steel and iron products permanently incorporated into the project must be domestically produced and have appropriate certification statements provided by the manufacturer.
- Records for the steel and iron products must be traceable through heat numbers and mill certificates.
- Certification statements shall be verified by visual inspection at the time of material delivery to the project site.

MCDOT has a Material Certification Checklist and/or Rejection Notification form to be used in verifying all requirements are met with regards to Certificates of Compliance. (Appendix F.14.3)



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Sample Materials Cert with the Buy America Statement



CERTIFICATE OF COMPLIANCE

DATE: 18-Feb-19 **JOB #:** AZ180049
TO: ANMEX REBAR PLACERS INC. **TRACKS #:** 00-MA-MMA-S Z0XX OIC
PROJECT NAME: **FED AID #:** STP-MMA-0(XXX)F
MCDOT PROJECT#: TT0XX

*REL00030 5-8' x4' DECK 171'

MATERIAL SUPPLIED : REINFORCING STEEL

| SIZE | WEIGHT | GRADE | HEAT NUMBERS | MILL |
|------|--------|-------|--------------|-------|
| 4 | 9138 | 60 | 4082186 | CMCAZ |
| 5 | 13748 | 60 | 4083003 | CMCAZ |
| 6 | 17373 | 60 | 4083408 | CMCAZ |

MATERIAL MEETS SPECIFICATIONS ACCORDING TO ASTM A615 & A706

BUY AMERICA CERTIFICATION:

WE DO HEREBY CERTIFY THAT ALL REINFORCING STEEL SUPPLIED TO THE ABOVE LISTED PROJECT COMPLIES WITH THE CURRENT "BUY AMERICA" REQUIREMENTS OF 23 CFR 635.410.

CMC REBAR ARIZONA

Date: 2/18/19
 BIANCA MORALES
 SHOP ASSISTANT

CONTRACTORS LICENSE #ROC189156 1-62
 11444 E. GERMANN RD., MESA, AZ 85212
 PHONE (480) 396-7200 * FAX (480) 396-7202

Exception Reports

Construction materials that failed to meet specification requirements, but were incorporated in the project, must be documented. A sample letter is provided on the next page.

Documentation could be through a change order or through a letter to the contractor allowing the material to stay in place under penalty.

Final Certification of Materials

Following completion of the project construction, the following shall be submitted to the ADOT Materials Group for approval:

- Materials Certification/Exception Report signed and sealed by the Construction Engineer
- Copies of exception materials documentation
- Final Materials Checklist
- Materials Certification Log
- Testing Summaries for AC, Concrete and Soils

An example of a Materials Final Certification Package is in Appendix F. (Appendix F.14.4)



IV.15: PROJECT COMPLETION

Project Completion shall comply with Section 109.7 – Payment for Bond Issue and Budget Projects. Project Completion for Federal Aid Projects shall require the following in addition to the requirements of the sections above:

- Federal Requirements Closeout Checklist for Construction Contracts
- Payrolls Close Out
- DBE Close Out
- Record Drawings (Red Lines / As-builts)

The Construction Engineer should obtain copies of a minimum of three federal reimbursement request from the finance section and include in the project files. These documents may be requested by ADOT and FHWA if the project is selected for an audit.

Federal Requirements Final Project Checklist

MCDOT's Federal Requirements Closeout Checklist for Construction Contracts (Appendix F.15.1) should be signed by MCDOT's Chief Construction Engineer.

Payrolls Close Out

Payrolls should not be closed until the prime and all of their sub-contractors have completed all work required of them. In addition, all outstanding payroll issues must be resolved before the payrolls for the project can be closed out.

Upon final project closure, MCDOT will place the project into "Inactive Status" in LCP Tracker.

DBE Close Out

The Prime contractor must complete "Certification of Final Disadvantaged Business Enterprise (DBE) Payments" (Appendix F.4.5) form in accordance to Section IV.4 for each DBE subcontractor. This form is signed by the DBE and turned in to the Construction Engineer for verification of final payment. The total payment amount reported on the form must match the amount in the LPA DBE Reporting system, and the DBE needs to concur to the payment shown on the system. After reviewing and verifying the DBE Payment Certifications, the Construction Engineer shall submit the forms to ADOT BECO for approval. **Final payment shall not be issued to the contractor until ADOT BECO approves all the Certification of Final DBE Payments forms.**

Record Drawings (As-Builts)

During the construction of the project, it is the inspector's responsibility to document through red lines any changes to the project plans. At the end of the project, the Construction Engineer will compile all the red lines and put them together in a final as-builts set. In addition some aspects of work may require the contractor to track and submit their red lines at the end of the project. The contractors red lines should be reviewed and once accepted should be incorporated into the final as-built set.



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The Construction Engineer shall review the final as-built plan set, seal, and sign in the as-built certificate.



IV.16: AUDITS & PROJECT ARCHIVES

IV.16.1: Audits

When federal funding is involved, a project may be selected for one or more of the following audits:

- Compliance Assessment Review Audit (FHWA)
- Oversight and Monitoring Review Audit (ADOT LPA & FHWA)
- Certification Acceptance Program Audit (ADOT Office of Audit and Analysis)
- DBE Audit (ADOT BECO)
- FHWA Billing Reviews Audit (FHWA)
- Labor Compliance Audit (DOL)
- State Attorney General's office
- Independent Construction Reviews

Compliance Assessment Review Audit

A Compliance Assessment Review Audit is an audit that is performed by FHWA. As part of this audit the Construction Engineer will be asked to provide certain files to ADOT's LPA and FHWA. Some of these files that may be requested are:

- Copy of the contract including the tabulation of bids.
- Copy of approved Temporary Maintenance of Traffic/Temporary Traffic Control Plan.
- Copy of DBE goals at contract award.
- Copy of DBE firms currently approved to work on the project.
- Name and contact information for MCDOT's Construction Engineer.
- A copy of one contract Supplemental Agreement (including Engineer's cost analysis).
- Contact for questions regarding material quality, quality control sampling and tests for this project.

The requested files should be provided to ADOT's Certified Acceptance Coordinator. Additionally, questions may be asked by either ADOT LPA Section or FHWA. The Construction Engineer will be responsible for providing the requested information.

Oversight and Monitoring Review Audit

An Oversight and Monitoring Review Audit is an audit that is performed by ADOT LPA & FHWA. As part of this audit the Construction Engineer will be asked to provide certain files to ADOT LPA and FHWA. An example of an Oversight and Monitoring Review letter is found in Appendix F. (Appendix F.16.1) ADOT is now including a Site Visit Audit in the Oversight and Monitoring reviews.

The requested files should be provided to ADOT's Certification Acceptance Coordinator. In addition, questions may be asked by either ADOT LPA Section or FHWA. **The Construction Engineer will be responsible for providing the requested information.**



A meeting will be set up once the audit is complete to discuss findings and a time frame will be granted to further research and supply documentation to ADOT LPA before the final report is written and distributed.

Certification Acceptance Program Audit

A Certification Acceptance Program Audit is performed by the ADOT Office of Audit and Analysis. The objective of this detailed audit is to determine whether:

- Construction costs reimbursed to the LPA by ADOT under the CA Program were in compliance with federal, state and LPA agency regulations, policies and procedures.
- Construction costs for the project were supported in accordance with the requirements of the project Special Provisions, Standard Specifications and other applicable policies and procedures of the LPA agency.

The following documents are typically included in these audits:

- Contract Documents
- Contract Time
- Change Order and Force Accounts
- Documentation of Contract Quantities
- Labor Compliance
- Items Purchase, Replace and Salvaged
- Materials testing
- Staffing, Safety and Partnering
- Special Provisions
- Quantlist

The procedures of the audit typically include interviewing project staff, examination of supporting documentation and records of the construction activity, inspection of the completed work, and testing the construction costs in the LPA reimbursement request for compliance with federal, state and LPA regulations.

DBE Audit

ADOT BECO may audit the project if a complaint is filed by a DBE sub-contractor that was included as part of the prime's DBE affidavit during the bidding process. At that time BECO will request information and documentation related to the DBE's claim. BECO may also request information that could be included in the LPA DBE Reporting System.

FHWA Billing Reviews Audit

An FHWA Billing Review Audit is an audit that is performed by FHWA. As part of this audit the Construction Engineer will be asked to participate along with MCDOT Finance and Contracts and provide certain files FHWA.



DOL Labor Compliance Audit

A Labor Compliance Audit is an audit that is performed by the Department of Labor. As part of this audit, DOL will verify that the requirements of project wage decision(s) are being met. Some projects can require two different types of wage decisions (i.e., highway and heavy); it is important to document how the payrolls are being checked to ensure the employees are being paid correctly in case they should be covered by both wage decisions. The Construction Engineer will be asked to participate along with MCDOT to provide certain files to DOL.

Independent Construction Reviews

As a condition of Certification Acceptance, MCDOT is required to perform audit reviews of construction projects receiving federal-aid. During the construction of the project the Construction Engineer shall request a review by a team independent from the administrative and design teams. The team performs an independent review of the project files and construction records maintained by the Construction Engineer. It is required that at least three reviews be performed over the duration of the project, one at the beginning, one progress review near mid-point and one at the end. In addition, for major construction projects of long duration it is recommended that at least one additional progress review be performed.

An example of an Independent Construction Review is in Appendix F. (Appendix F.10.3)

IV.16.2: Project Archives/Records Retention

Archiving of Project Files

All project records, documentation and files should be retained and archived by the Department for a period of 10 years and then transferred to the State Archives for permanent storage. The Maricopa County and Department records retention policies and procedures, on file with the Custodian of Records, should be followed. MCDOT Construction Branch retains documentation of the transfer of these files for archiving. It is also a federal requirement that the Contractor retain their records for 5 years from the date FHWA closes the project which can be up to 5 years after construction. Project files should include, but not be limited to:

- List of subcontractors (identifying DBE's) and suppliers
- Environmental Clearances
- Materials Acceptance
- Contractor's DBE affidavits
- Traffic Control Plans
- Change Orders
- Notice to Proceed for the Contractor
- Substantial Completion Letter
- Final Acceptance Letter
- Utility Agreements
- Buy America Materials Certifications



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- Commercially Useful Function documentation
- Contractor Progress Payments and quality work documentation
- Consultant Payment Invoices and supporting documentation
- DBE final payment affidavits
- Payrolls/Davis Bacon Wages
- Record Drawings (As-Builts)